Side-by-Side Comparison of WIA Final Rule and Interim Final Rule

PART 660 INTRODUCTION TO THE REGULATIONS FOR WORKFORCE INVESTMENT SYSTEMS UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Sec. 660.300 What definitions apply to the regulations for workforce investment systems under Title I of WIA?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
		Preamble discussion for modifications or additions to definitions may be found on pages 49297-49298 of the Final Rule. In addition to the definitions set forth at WIA Section 101, the following definitions apply to the regulations in 20 CFR parts 660 through 671.
Individual with a disability means an individual with any disability (as defined in Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)). For purposes of WIA Section 188, this term is defined at 29 CFR 37.4.	(No text)	Other commenters suggested we include a definition of the term ``individual with a disability'' to encourage One-Stop center staff to have a knowledge and sensitivity to the needs of such individuals. Response: Since the provision of quality services to individuals with disabilities is a key facet of the One-Stop service delivery system, we have added the WIA Title I, Section 101(17) definition of the term ``individual with a disability'' to Sec. 660.300.
Labor Federation means an alliance of two or more organized labor unions for the purpose of mutual support and action.	(No text)	A commenter requested that we define the term ``labor federation'' as used in relation to nomination requirements for labor representatives to the State and Local Boards, stating ``[i]t is our understanding that [this term] is intended to include AFL-CIO State Federations, State Building and Construction Trades Councils, AFL-CIO Central Labor Councils, and Local Building and Construction Trade Councils.'' Response: We have added a definition of the term ``labor federation'', similar to that used in JTPA, which will include these groups within that term.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a funding period that will require payment by the recipient or subrecipient during the same or a future period. For purposes of the reallotment process described at 20 CFR 667.150, the Secretary also treats as State obligations any amounts allocated by the State under WIA Sections 128(b) and 133(b) to a single area State or to a balance of State local area administered by a unit of the State government, and inter-agency transfers and other actions treated by the State as encumbrances against amounts reserved by the State under WIA Sections 128(a) and 133(a) for Statewide workforce investment activities.	(No text)	The purpose of these exclusions is to treat similar financial transactions the same way in all States, even where a State only recognizes a financial transaction as a legally enforceable ``obligation'' if it involves an arms-length award to another party or if performance has already occurred.
Recipient means an entity to which a WIA grant is awarded directly from the Department of Labor to carry out a program under Title I of WIA. The State is the recipient of funds awarded under WIA Sections 127(b)(1)(C)(I)(II), 132(b)(1)(B) and 132(b)(2)(B). The recipient is the entire legal entity that received the award and is legally responsible for carrying out the WIA program, even if only a particular component of the entity is designated in the grant award document.	(Modification)	We also are modifying the definition of ``recipient'' to indicate that the term refers to the entire legal entity receiving the award, not just the particular component within that entity which is designated in the award document. The modification is consistent with the definition of ``recipient'' in the JTPA regulations at 20 CFR 626.5 and the definition of ``grantee'' in the Common Rule at 29 CFR 97.3.
Subrecipient means an entity to which a subgrant is awarded and which is accountable to the recipient (or higher tier subrecipient) for the use of the funds provided. DOL's audit requirements for States, local governments, and non-profit organizations provides guidance on distinguishing between a subrecipient and a vendor at 29 CFR 99.210.	(Modification)	We are modifying the definitions of ``subrecipient'' and ``vendor'' to cross-reference the discussion in the DOL audit requirements, at 29 CFR 99.210, which contrasts the differences between subrecipients and vendors. Since the definition of ``grant'' in Sec. 660.300, is already quite specific as to the types of organizations which may be awarded grants, we consider changes to this term to be unnecessary.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
Unobligated balance means the portion of funds authorized by the Federal agency that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.	(No text)	We also are adding the definition of ``unobligated balance,'' which appears at 29 CFR 97.3, for the convenience of the reader.
Vendor means an entity responsible for providing generally required goods or services to be used in the WIA program. These goods or services may be for the recipient's or subrecipient's own use or for the use of participants in the program. DOL's audit requirements for States, local governments, and non-profit organizations provides guidance on distinguishing between a subrecipient and a vendor at 29 CFR 99.210.	(No text)	We are modifying the definitions of ``subrecipient'' and ``vendor'' to cross-reference the discussion in the DOL audit requirements, at 29 CFR 99.210, which contrasts the differences between subrecipients and vendors. Since the definition of ``grant'' in Sec. 660.300, is already quite specific as to the types of organizations which may be awarded grants, we consider changes to this term to be unnecessary.

PART 661 STATEWIDE AND LOCAL GOVERNANCE OF THE WORKFORCE INVESTMENT SYSTEM UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Subpart A - General Governance Provisions

Sec. 661.120 What are the roles of the local and State governmental partner in the governance of the workforce investment system?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) Local areas should establish policies, interpretations, guidelines and definitions to implement provisions of Title I of WIA to the extent that such policies, interpretations, guidelines and definitions are not inconsistent with the Act and the regulations issued under the Act, Federal statutes and regulations governing One-Stop partner programs, and with State policies.	(a) Local ~~Boards~~ should establish policies, interpretations, guidelines and definitions to implement provisions of Title I of WIA to the extent that such policies, interpretations, guidelines and definitions are not inconsistent with the Act ~~or the regulations or with State policies.~~	Section 661.120 provides authority to State and Local governments to establish their own policies, interpretations, guidelines and definitions relating to program operations under Title I, as long as they are not inconsistent with WIA, these regulations, and Federal statutes and regulations governing One-Stop partner programs. The reference to Federal statutes and regulations governing One-Stop partner programs has been added to Sec. 661.120 (a) and (b) as a reminder that State and local administration of the One-Stop system

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(b) States should establish policies, interpretations, guidelines and definitions to implement provisions of Title I of WIA to the extent that such policies, interpretations, guidelines and definitions are not inconsistent with the Act and the regulations issued under the Act, as well as Federal statutes and regulations governing One-Stop partner programs.	(b) State ~~Boards~~ should establish policies, interpretations, guidelines and definitions to implement provisions of Title I of WIA to the extent that such policies, interpretations, guidelines and definitions are not inconsistent with the Act and regulations.	must be consistent with the requirements of the Federal law applicable to the partner's program. In the case of local governments such policies, interpretation, guidelines and definitions may not be inconsistent with State policies. This Section has also been revised to correct an inconsistency between terms used in the question and answer. The question refers to ``Local and State governmental partners'' while the answer refers to Local and State Boards. We do not intend to exclude the Governors and local elective officials from the authority to develop State and local policies relating to WIA Title I, provided those policies are consistent with the Act, regulations and, where appropriate, other State policies. Therefore, paragraphs (a) and (b) are revised to replace the phrases ``Local Boards'' and ``State Boards'' with ``Local areas'' and ``States'' respectively so that they will not appear to be inconsistent with the terms used in the question.

Subpart B - State Governance Provisions

Sec. 661.200 What is the State Workforce Investment Board?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(i) For the programs and activities carried out by One-Stop partners, as described in WIA Section 121(b) and 20 CFR 662.200 and 662.210, the State Board must include: (3) If the director of the designated State unit, as defined in Section 7(8)(B) of the Rehabilitation Act, does not represent the State Vocational Rehabilitation Services program (VR program) on the State Board, then the State must describe in its State plan how the member of the State Board representing the VR program will effectively represent the interests, needs, and priorities of the VR program and how the	(i) For the programs and activities carried out by One-stop partners, as described in WIA Section 121(b) and 20 CFR 662.210,	Under Secs. 661.200(j) and 661.305(d), the development of significant policies, interpretations, guidelines and definitions, as an activity of the boards must be done in an open manner. To emphasize this requirement, we have moved these requirements to new Secs. 661.207 and 661.307, and have specified that the development of significant policies, interpretations, guidelines and definitions must be conducted in an open manner. We have made several changes to clarify what is meant by representation on the State and Local Workforce Investment Boards. We have made changes to accommodate the concerns of those commenters who asked whether an individual seated on the Board could represent more than

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
employment needs of individuals with disabilities in the State will be addressed.		one entity or institution. While such ``multiple entity'' representation may not be appropriate in all cases, we believe that there may be instances when such representation may be an effective tool for reducing Board size while still ensuring that all parties entitled to representation receive effective representation. Therefore, we have added new paragraphs to Secs. 661.200 and 661.315 to permit it when appropriate.
(j) An individual may be appointed as a representative of more than one entity if the individual meets all the criteria for representation,including the criteria described in paragraphs (d) through (f) of this Section, for each entity. (WIA Sec. 111)	~~(j) The State Board must conduct its business in an open manner as required by WIA Section 111(g), by making available to the public, on a regular basis through open meetings, information about the activities of the State Board, including information about the State Plan prior to submission of the plan, information about membership, and on request, minutes of formal meetings of the State Board. (WIA Section 111)~~	

Sec. 661.203 What is meant by the terms ``optimum policy making authority'' and ``expertise relating to [a] program, service or activity''? For purposes of selecting representatives to State and local workforce investment boards:

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) A representative with ``optimum policy making authority'' is an individual who can reasonably be expected to speak affirmatively on behalf of the entity he or she represents and to commit that entity to a chosen course of action.  (b) A representative with ``expertise relating to [a] program,service or activity'' includes a person who is an official with a One-stop partner program and a person with documented expertise relating to the One-stop partner program.	(No text)	We have added a new Sec. 661.203, in which we have defined the terms ``optimum policy-making authority'' and ``expertise relating to [a] program, service or activity'' in order to assist States and Local areas in determining when such representation is appropriate. A representative with ``optimum policy making authority'' is an individual who can reasonably be expected to speak affirmatively on behalf of the entity he or she represents and to commit that entity to a chosen course of action. In the case of a One-Stop partner program, an individual who does not have ``optimum policy-making authority'' within an entity that receives funds or carries out activities under the partner program cannot serve as that program's representative on the Local Board. A representative with ``expertise relating to [a] program, service or

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
		activity" includes a person who is an official with a One-Stop partner program and a person with documented expertise relating to the One-Stop partner program.

Sec. 661.207 How does the State Board meet its requirement to conduct business in an open manner under the ``sunshine provision'' of WIA Section 111(g)?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
The State Board must conduct its business in an open manner as required by WIA Section 111(g), by making available to the public, on a regular basis through open meetings, information about the activities of the State Board. This includes information about the State Plan prior to submission of the plan; information about membership; the development of significant policies, interpretations, guidelines and definitions; and, on request, minutes of formal meetings of the State Board.	(No text)	Under Secs. 661.200(j) and 661.305(d), the development of significant policies, interpretations, guidelines and definitions, as an activity of the boards must be done in an open manner. Development of significant policies, interpretations, guidelines and definitions, as an activity of the boards must be done in an open manner. To emphasize this requirement, we have moved these requirements to new Secs. 661.207 and 661.307, and have specified that the development of significant policies, interpretations, guidelines and definitions must be conducted in an open manner.

Sec. 661.210 Under what circumstances may the Governor select an alternative entity in place of the State Workforce Investment Board?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) If the alternative entity does not provide for representative membership of each of the categories of required State Board membership under WIA Section 111(b), the State Plan must explain the manner in which the State will ensure an ongoing role for any unrepresented membership group in the workforce investment system. The State Board may maintain an ongoing role for an unrepresented membership group, including entities carrying out One-stop partner programs, by means such as regularly scheduled consultations with entities within the unrepresented membership groups, by providing an opportunity for input into the State Plan or other policy development by	(c) If the alternative entity does not provide for representative membership of each of the categories of required State Board membership under WIA Section 111(b), the State Plan must explain the manner in which the State will ensure an ongoing role for any such group in the workforce investment system.	The Boards could provide for regularly scheduled consultations, may provide an opportunity for input into the State or local plan or other policy development, or may establish an advisory committee of unrepresented groups. We also require that the alternative entity engage in good-faith negotiation over the terms of the MOU, with all omitted partner programs. We have made a change to more clearly identify those groups which are specified for representation on State and local boards under WIA but are not represented on the alternative entity as ``unrepresented membership groups''. This replaces the somewhat ambiguous term ``such groups'' used in the Interim Final Rule.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
unrepresented membership groups, or by establishing an advisory committee of unrepresented membership groups.	(d) If the membership structure of the alternative entity is significantly changed after December 31, 1997, the entity will no longer be eligible to perform the functions of the State Board. In such case, the Governor must establish a new State Board which meets all of the criteria of WIA Section 111(b). ~~A significant change in the membership structure does not mean the filling of a vacancy on the alternative entity, but does include any change in the organization of the alternative entity or in the categories of entities represented on the alternative entity which requires a change to the alternative entity's charter or a similar document that defines the formal organization of the alternative entity.~~	There were several comments regarding the provision in Secs. 661.210(d) and 661.330(c) about changes in the membership structure of an alternative entity serving as the State Workforce Investment Board or as a Local Workforce Investment Board. Two commenters thought that the rule was overly restrictive about permitting changes to alternative entities and suggested that we revise the Interim Final Rule to permit incremental changes to these entities so that at least some of the representational groups required by the WIA Board membership requirements could be added to existing entities, or that we permit incremental changes that increase the efficiency and effectiveness of the workforce investment system.
(e) A significant change in the membership structure includes any significant change in the organization of the alternative entity or in the categories of entities represented on the alternative entity which requires a change to the alternative entity's charter or a similar document that defines the formal organization of the alternative entity, regardless of whether the required change to the document has or has not been made. A significant change in the membership structure is considered to have occurred when members are added to represent groups not previously represented on the entity. A significant change in the membership structure is not considered to have occurred when additional members are added to an existing membership category, when non-voting members are	~~(e) In 20 CFR parts 660 through 671, all references to the State Board also apply to an alternative entity used by a State.~~	We have added language to clarify the type of situation in which the membership structure of an alternative entity is considered to have been significantly changed. Specifically, a significant change in the membership structure is considered to have occurred when members are added to represent groups not previously represented on the entity. A significant change in the membership structure is not considered to have occurred when additional members are added to an existing membership category, when non-voting members (including a Youth Council) are added, or when a member is added to fill a vacancy created in an existing membership category. A change to the charter is not itself grounds for disqualification of an alternative entity. The relevant question is whether the organization or membership structure has been changed. However, we continue to consider the need for a change to the charter as a good indicator of a significant change in the membership

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
added, or when a member is added to fill a vacancy created in an existing membership category. (f) In 20 CFR parts 660 through 671, all references to the State Board also apply to an alternative entity used by a State.		structure, and have clarified that this is true regardless of whether the required change has been made.

Sec. 661.220 What are the requirements for the submission of the State Workforce Investment Plan?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(e) The Secretary reviews completed plans and must approve all plans within ninety days of their submission, unless the Secretary determines in writing that: (3) A plan which is incomplete, or which does not contain sufficient information to determine whether it is consistent with the statutory or regulatory requirements of Title I of WIA or of Section 8(d) of the Wagner-Peyser Act, will be considered to be inconsistent with those requirements.	(No text)	3. State Workforce Investment Plan Requirements: Section 661.220 describes the requirements for submission of the State Workforce Investment Plan and the process for review and approval of that plan. A new paragraph (e)(3) is added to Sec. 661.220 is added [sic] to clarify that a plan that is incomplete or does not contain sufficient information to determine whether it is fully compliant with the statutory and regulatory requirements of WIA and the Wagner-Peyser Act is considered to be inconsistent with these requirements for plan approval purposes.

Sec. 661.240 How do the unified planning requirements apply to the five-year strategic WIA and Wagner-Peyser plan and to other Department of Labor plans?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(b) For purposes of paragraph (a) of this Section: (2) A state may submit a unified plan meeting the requirements of the Interagency guidance entitled State Unified Plan, Planning Guidance for State Unified Plans Under Section 501 of the Workforce Investment Act of 1998, in lieu of completing the individual State planning guidelines of the programs covered by the unified plan.		

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) A State which submits a unified plan covering an activity or program described in subsection 501(b) of WIA that is approved under Subsection 501(d) of the Act will not be required to submit any other plan or application in order to receive Federal funds to carry out the activity or program.	~~(c) A State which submits a unified plan under paragraph (a) of this Section will not be required to submit additional planning materials as a condition for approval to receive Federal funds.~~	

Sec. 661.250 What are the requirements for designation of local workforce investment areas?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(d) The Governor of any State that was a single service delivery area State under the Job Training Partnership Act as of July 1, 1998, and only those States, may designate the State as a single local workforce investment area State. (WIA Sec.116.)	(No text)	

Subpart C - Local Governance Provisions

Sec. 661.307 How does the Local Board meet its requirement to conduct business in an open manner under the ``sunshine provision'' of WIA Section 117(e)

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
The Local Board must conduct its business in an open manner as required by WIA Section 117(e), by making available to the public, on a regular basis through open meetings, information about the activities of the Local Board. This includes information about the Local Plan prior to submission of the plan; information about membership; the development of significant policies, interpretations, guidelines and definitions; and, on request, minutes of formal meetings of the Local Board.	(No text)	Under Secs. 661.200(j) and 661.305(d), the development of significant policies, interpretations, guidelines and definitions, as an activity of the boards must be done in an open manner. To emphasize this requirement, we have moved these requirements to new Secs. 661.207 and 661.307, and have specified that the development of significant policies, interpretations, guidelines and definitions must be conducted in an open manner.

Sec. 661.310 Under what limited conditions may a Local Board directly be a provider of core services, intensive services, or training services, or act as a One-Stop Operator?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(b) A Local Board is prohibited from providing training services, unless the Governor grants a waiver in accordance with the provisions in WIA Section 117(f)(1). The waiver shall apply for not more than one year. The waiver may be renewed for additional periods, but for not more than one additional year at a time.	(b) A Local Board is prohibited from providing training services, unless the Governor grants a waiver in accordance with the provisions in WIA Section 117(f)(1). The waiver shall apply for not more than one year ~~and may be renewed for not more than one additional year.~~	Local Boards as Service Providers: Section 117(f)(1) of WIA places limitations on Local Boards' direct provision of core services, intensive services, or training services. These limitations and waivers of the limitation on providing training services are set forth in Sec. 661.310. Commenters noted that Sec. 661.310(b) permits a waiver of the prohibition on providing training services to be renewed only once. Response: This limitation was inadvertent. We have revised this paragraph to indicate that a waiver may be renewed more than once, although no waiver may be for more than one-year at a time.

Sec. 661.315 Who are the required members of the Local Workforce Investment Boards?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(f) An individual may be appointed as a representative of more than one entity if the individual meets all the criteria for representation, including the criteria described in paragraphs (c) through (e) of this Section, for each entity.	(No text)	We have made several changes to clarify what is meant by representation on the State and Local Workforce Investment Boards. We have made changes to accommodate the concerns of those commenters who asked whether an individual seated on the Board could represent more than one entity or institution. While such ``multiple entity'' representation may not be appropriate in all cases, we believe that there may be instances when such representation may be an effective tool for reducing Board size while still ensuring that all parties entitled to representation receive effective representation. Therefore, we have added new paragraphs to Secs. 661.200 and 661.315 to permit it when appropriate.

Sec. 661.317 Who may be selected to represent a particular One-Stop partner program on the Local Board when there is more than one partner program entity in the local area?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
When there is more than one grant recipient, administrative entity or organization responsible for administration of funds of a particular One-stop partner program in the local area, the chief elected official may appoint one or more members to represent all of those particular partner program entities. In making such appointments, the local elected official may solicit nominations from the partner program entities.	(No text)	Finally, we have added new Sec. 661.317 to clarify representation when there are several Local grantees or operating entities of a partner program in a One-Stop system. In such a case, the Local Board membership requirements may be met by the appointment of one member to represent all of the Local partner program entities. Also, Sec. 661.317 permits the chief elected official to solicit nominations from One-Stop partner program entities to facilitate the selection of such representatives.

Sec. 661.330 Under what circumstances may the State use an alternative entity as the local workforce investment board?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(b)(3) The Local Board may provide an ongoing role for an unrepresented membership group, including entities carrying out One-stop partner programs, by means such as regularly scheduled consultations with entities within the unrepresented membership groups, by providing an opportunity for input into the local plan or other policy development by unrepresented membership groups, or by establishing an advisory committee of unrepresented membership groups. The Local Board must enter into good faith negotiations over the terms of the MOU with all entities carrying out One-stop partner programs, including programs not represented on the alternative entity.	(No text)	We also require that the alternative entity engage in good-faith negotiation over the terms of the MOU, with all omitted partner programs. We have made a change to more clearly identify those groups which are specified for representation on State and local boards under WIA but are not represented on the alternative entity as ``unrepresented membership groups''. This replaces the somewhat ambiguous term ``such groups'' used in the Interim Final Rule.
(c) If the membership structure of an alternative entity is significantly changed after December 31, 1997, the entity will no longer be eligible to perform the functions of the Local Board. In such case, the chief elected	~~(c) If the membership structure of an alternative entity is significantly changed after December 31, 1997, the entity will no longer be eligible to perform the functions of the Local Board. In such case, the chief elected~~	There were several comments regarding the provision in Secs. 661.210(d) and 661.330(c) about changes in the membership structure of an alternative entity serving as the State Workforce Investment Board or as a Local Workforce Investment Board. Two commenters thought that

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
official(s) must establish a new Local Board which meets all of the criteria of WIA Section 117(a), (b), and (c) and (h)(1) and (2).	~~official(s) must establish a new Local Board which meets all of the criteria of WIA Section 117(a), (b), and (c) and (h)(1) and (2). A significant change in the membership structure does not mean the filling of a vacancy on the alternative entity, but does include any change in the organization of the alternative entity or in the categories of entities represented on the alternative entity that requires a change to the alternative entity's charter or a similar document that defines the formal organization of the alternative entity.~~	the rule was overly restrictive about permitting changes to alternative entities and suggested that we revise the Interim Final Rule to permit incremental changes to these entities so that at least some of the representational groups required by the WIA Board membership requirements could be added to existing entities, or that we permit incremental changes that increase the efficiency and effectiveness of the workforce investment system.
(d) A significant change in the membership structure includes any significant change in the organization of the alternative entity or in the categories of entities represented on the alternative entity which requires a change to the alternative entity's charter or a similar document that defines the formal organization of the alternative entity, regardless of whether the required change to the document has or has not been made. A significant change in the membership structure is considered to have occurred when members are added to represent groups not previously represented on the entity. A significant change in the membership structure is not considered to have occurred when additional members are added to an existing membership category, when non-voting members (including a Youth Council) are added, or when a member is added to fill a vacancy created in an existing membership category.	~~(d) In these regulations, all references to the Local Board must be deemed to also apply to an alternative entity used by a local area. (WIA Sec. 117(i).)~~	
(e) In 20 CFR parts 660 through 671, all references to the Local Board must be deemed to also apply to an alternative entity used by a local area. (WIA Sec. 117(i).)	(No text)	

Sec. 661.350 What are the contents of the local workforce investment Plan?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(d) During program year 2000, if a local plan does not contain all of the elements described in paragraph (a) of this Section, the Governor may approve a local plan on a transitional basis. A transitional approval (under this paragraph is considered to be a written determination that the local plan is not approved under paragraph (b) of this Section.	(No text)	In recognition of the fact that some local areas may need additional time to develop a fully approvable local plan, we have added a new Sec. 661.350(d), authorizing Governors to approve local plans on a transitional basis during program year 2000. Governors may use this authority to give transitional approval to local areas that have not finalized their MOU's or other elements of their plan. Such a conditional approval is considered to be a written determination that the local plan is not approved, but will allow implementation of WIA reforms as they finalize the transition from JTPA to WIA.

Subpart D - General Waivers and Work-Flex Waivers

Sec. 661.420 Under what conditions may a Governor request, and the Secretary approve, a general waiver of statutory or regulatory requirements under WIA Section 189(i)(4)?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) A Governor requesting a general waiver must submit to the Secretary a plan to improve the Statewide workforce investment system that: (5) Describes the processes used to: (iv) Ensure meaningful public comment, including comment by business and organized labor, on the waiver.	(No text)	In our view, the decision to request a waiver of statutory or regulatory requirements is such a major decision. Accordingly, we have revised Sec. 661.420(c)(5), to require a description of the process used to ensure meaningful public comment, including comment by business and organized labor, on the State waiver plan. Finally, we agree on the need for evaluation of the waiver process. Although, we have not yet made specific plans for such a review, we intend to do so in the future.

PART 662--DESCRIPTION OF THE ONE-STOP SYSTEM UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Subpart B - One-Stop Partners and the Responsibilities of Partners

Sec. 662.210 What other entities may serve as One-Stop partners?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) The State may require that one or more of the programs identified in paragraph (b) of this section be included as a partner in all of the local One-Stop delivery systems in the State.	(None)	One commenter suggested that the Governor has the authority under WIA to require that additional partners be included in all the local One-Stop delivery systems in the State and asks that the regulation include such authority. The commenter cites Section 112(b)(8)(A) of WIA, which requires the State to describe in the State plan procedures to assure coordination and avoid duplication among specified programs, and Section 117(b)(1) of WIA, which provides that the Governor establish criteria for the appointment of members of local boards, as the basis for this authority. We agree that the provisions cited by the commenter authorize the State to require that additional partners participate as partners in all of the One-Stop systems in the State… We have added a new Section 662.210(c) to clarify that the State does have this authority.

Sec. 662.220 What entity serves as the One-Stop partner for a particular program in the local area?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) The ``entity'' that carries out the program and activities listed in Secs. 662.200 and 662.210 and, therefore, serves as the One-Stop partner is the grant recipient, administrative entity or organization responsible for administering the funds of the specified program in the local area. The term ``entity'' does not include the service providers that contract with or are subrecipients of the local administrative entity. For programs that do not include local administrative entities, the responsible State Agency should be the	(a) The ``entity'' that carries out the program and activities listed in Secs. 662.200 and 662.210 of this subpart, and, therefore, serves as the One-Stop partner is the grant recipient, administrative entity or organization responsible for administering the funds of the specified program in the local area. The term ``entity'' does not include the service providers that contract with or are subrecipients of the local administrative entity. For programs that do not include local administrative entities, the responsible State Agency should be the	Another commenter noted that Sec. 662.220(b)(3) only defines national programs under Title I of WIA as required partners if such programs are present in the local area and suggested that the regulation apply the same condition to the other required partners. Response: We agree that the responsibilities of a required partner apply in those local areas where the required partner provides services. We do not believe WIA was intended to require programs not serving local areas to begin to provide services in such areas, but instead to require collaboration through the One- Stop system in any local area

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
partner. Specific entities for particular programs are identified in paragraph (b) of this section. If a program or activity listed in Sec. 662.200 is not carried out in a local area, the requirements relating to a required One-Stop partner are not applicable to such program or activity in that local One-Stop system.	partner. Specific entities for specific programs are identified in paragraph (b) of this section.	in which such services are provided. While we believe that the vast majority of local areas are currently served by the required partner programs, the regulation is modified to clarify this requirement.

Subpart C- Memorandum of Understanding

Sec. 662.310 Is there a single MOU for the local area or are there to be separate MOU's between the Local Board and each partner?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) A single ``umbrella'' MOU may be developed that addresses the issues relating to the local One-Stop delivery system for the Local Board, chief elected official and all partners, or the Local Board, chief elected official and the partners may decide to enter into separate agreements between the Local Board (with the agreement of the chief elected official) and one or more partners. Under either approach, the requirements described in this subpart apply. Since funds are generally appropriated annually, financial agreements may be negotiated with each partner annually to clarify funding of services and operating costs of the system under the MOU.	(a) A single ``umbrella'' MOU may be developed that addresses the issues relating to the local One-Stop delivery system for the Local Board and all partners, or the Local Board and the partners may decide to enter into separate agreements between the Local Board and one or more partners. Under either approach, the requirements described in Sec. 662.310 apply. Since funds are generally appropriated annually, financial agreements may be negotiated with each partner annually to clarify funding of services and operating costs of the system under the MOU.	Some commenters indicated that the involvement of the chief elected official was critical to the successful development and implementation of MOU's and expressed concern that while the agreement of the chief elected official to the MOU was required under Sec. 662.300, the chief elected official was not identified as a party to the MOU in Sec. 662.310. Response: We agree that the chief elected official has a significant role to play in facilitating the development, completion and operation of the MOU's. This role is explicit in WIA Section 121(c), which provides that the Local Board is to develop and enter into MOU's with the agreement of the chief elected official. This role is included in Sec. 662.300 and we are adding similar language to Sec. 662.310.
(b) WIA emphasizes full and effective partnerships between Local Boards, chief elected officials and One-Stop partners. Local Boards and partners must enter into good-faith negotiations. Local Boards, chief elected officials and partners may request assistance from a State agency responsible for administering the partner program, the Governor, State Board, or other appropriate parties. The State agencies, the State Board,	(b) WIA emphasizes full and effective partnerships between Local Boards and One-Stop partners. Local Boards and partners must enter into good-faith negotiations. Local Boards and partners may request assistance from a State agency responsible for administering the partner program, the Governor, State Board, or other appropriate parties. The State agencies, the State Board, and the Governor may also	

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
and the Governor may also consult with the appropriate Federal agencies to address impasse situations after exhausting other alternatives. The Local Board and partners must document the negotiations and efforts that have taken place. Any failure to execute an MOU between a Local Board and a required partner must be reported by the Local Board and the required partner to the Governor or State Board, and the State agency responsible for administering the partner's program, and by the Governor or the State Board and the responsible State agency to the Secretary of Labor and to the head of any other Federal agency with responsibility for oversight of a partner's program. (WIA Sec. 121(c).)	consult with the appropriate Federal agencies to address impasse situations after exhausting other alternatives. The Local Board and partners must document the negotiations and efforts that have taken place. Any failure to execute an MOU between a Local Board and a required partner must be reported by the Local Board and the required partner to the Governor or State Board, and the State agency responsible for administering the partner's program, and by the Governor or the State Board and the responsible State agency to the Secretary of Labor and to the head of any other Federal agency with responsibility for oversight of a partner's program. (WIA Sec. 121(c).)	
(c) If an impasse has not been resolved through the alternatives available under this section any partner that fails to execute an MOU may not be permitted to serve on the Local Board. In addition, any local area in which a Local Board has failed to execute an MOU with all of the required partners is not eligible for State incentive grants awarded on the basis of local coordination of activities under 20 CFR 665.200(d)(2). These sanctions are in addition to, not in lieu of, any other remedies that may be applicable to the Local Board or to each partner for failure to comply with the statutory requirement.	(c) If an impasse has not been resolved through the alternatives available under this section any partner that fails to execute an MOU may not be permitted to serve on the Local Board. In addition, any local area in which a Local Board has failed to execute an MOU with all of the required partners is not eligible for State incentive grants awarded on the basis of local coordination of activities under 20 CFR 665.200(d)(2).	With respect to the sanctions identified in Sec. 662.310(c), we believe it is reasonable to interpret the reference to representatives of the One-Stop partners on the Local Board in WIA Section 117(b)(2)(A)(vi) as referring to those One-Stop partners that meet the requirements for being partners in the local One-Stop system, including executing the MOU. Since the MOU is the vehicle through which the partner's role in the local system is detailed, the inability to reach agreement on that role means that an entity has not assumed the role of a One-Stop partner in that local system for purposes of representation on the Local Board.

Subpart D - One-Stop Operator

Sec. 662.410 How is the One-Stop Operator selected?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) The Local Board, with the agreement of the chief elected official, must designate and certify One-Stop operators in each local area.	(a) The Local Board, with the agreement of the chief elected official, must designate and certify One-Stop operators in each local area.	Some commenters suggested that the regulations be modified to allow for a system operator (rather than separate center operators) that may be responsible for the coordination of the entire local

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(b) The One-Stop operator is designated or certified: (1) Through a competitive process, (2) Under an agreement between the Local Board and a consortium of entities that includes at least three or more of the required One-Stop partners identified at Sec. 662.200, or (3) Under the conditions described in Secs. 662.420 or 662.430. (WIA Sec. 121(d), 121(e) and 117(f)(2)) (c) The designation or certification of the One-Stop operator must be carried out in accordance with the ``sunshine provision'' at 20 CFR 661.307.	(b) The One-Stop operator is designated or certified: Through a competitive process, or (2) Under an agreement between the Local Board and a consortium of entities that includes at least three or more of the required One-Stop partners identified at Sec. 662.200. (WIA Sec. 121(d).)	One-Stop system, or the maintenance and development of the linkages and technology between centers. Response: While WIA Section 121(d) refers to the operator primarily in connection with the operation of centers, we believe that the law does not preclude the expansion of that role to include additional coordination responsibilities relating to the One-Stop system. The particular role may vary depending on the design of the local system. We have modified Section 662.410(c) to include the possibility of broader One-Stop operator coordination responsibilities.

Sec. 662.420 Under what limited conditions may the Local Board be designated or certified as the One-Stop operator?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(b) The designation or certification must be reviewed whenever the biennial certification of the Local Board is made under 20 CFR 663.300(a). (WIA Sec. 117(f)(2).)	(b)The designation or certification must be ~~made publicly, in accordance with the requirements of the ``sunshine provision'' in WIA Section 117(e), and must be~~ reviewed whenever the biennial certification of the Local Board is made under 20 CFR 663.300(a). (WIA Sec. 117(f)(2).)	

Sec. 662.430 Under what conditions may One-Stop operators designated to operate in a One-Stop delivery system established prior to the enactment of WIA be designated to continue as a One-Stop operator under WIA without meeting the requirements of Sec. 662.410(b)?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
Under WIA Section 121(e), the Local Board, the chief elected official and the Governor may agree to certify an entity that has been serving as a One-Stop operator in a One-Stop	~~Under WIA Section 121(e), the Local Board, the chief elected official and the Governor may agree to certify an entity as a One-Stop operator under the following circumstances:~~	We believe that WIA provides options for the designation of One-Stop operators and intends for each local area to determine the approach that best meets local needs. We will disseminate information

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
delivery system established prior to the enactment of WIA (August 7,1998) to continue to serve as a One-Stop operator without meeting the requirements for designation under Sec. 662.410(b) if the local One-Stop delivery system is modified, as necessary, to meet the other requirements of this part, including the requirements relating to the inclusion of One-Stop partners, the execution of the MOU, and the provision of services. (WIA Sec. 121(e).)	(a) A One-Stop delivery system, consistent with the scope and meaning of the term in WIA Section 134(c), existed in the local area prior to August 7, 1998; ~~(b) The certification is consistent with the requirements of:~~ ~~(1) WIA Section 121(b) and;~~ ~~(2) the Memorandum(s) of Understanding; and~~ ~~(c) The certification must be made publicly, in accordance with the ``sunshine provision'' at WIA Section 117(e). (WIA Section 121(e).)~~	relating to the experience of local areas that have used each of the allowable options. We will also modify this regulation to clarify that the only difference between One-Stop systems that choose to grandfather the One-Stop operator and systems that designate the operator pursuant to competition or consortium agreement is the selection process.

PART 663 -- DELIVERY OF ADULT AND DISLOCATED WORKER ACTIVITIES UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Subpart A -- Delivery of Adult and Dislocated Worker Services Through the One-Stop Delivery System

Sec. 663.105 When must adults and dislocated workers be registered?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) EO data must be collected on every individual who is interested in being considered for WIA title I financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request from the recipient.	(c) E~~E~~O data must be collected on ~~individuals during the registration process~~.	In addition to the responsibility to register participants, EO data must be collected on every individual who is interested in being considered for WIA title I financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request from the recipient.

Sec. 663.110 What are the eligibility criteria for core services for adults in the adult and dislocated worker program?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
To be eligible to receive core services as an adult in the adult and dislocated worker programs, an individual must be 18 years of age or older. To be eligible for the dislocated worker programs, an eligible adult must meet the criteria of Sec. 663.115. Eligibility criteria for intensive and training services are found at Secs. 663.220 and 663.310.	~~To be an eligible adult in the adult and dislocated worker program, an individual must be 18 years of age or older. To be eligible for the dislocated worker program, an eligible adult must meet the criteria of Sec. 663.115 of this subpart.~~	

Sec. 663.150 What core services must be provided to adults and dislocated workers?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) At a minimum, all of the core services described in WIA Section 134(d)(2) and 20 CFR 662.240 must be provided in each local area through the One-Stop delivery system. (b) Follow-up services must be made available, as appropriate, for a minimum of 12 months following the first day of employment, to registered participants who are placed in unsubsidized employment.	(a) At a minimum, all of the core services described in WIA Section 134(d)(2) and 20 CFR ~~662.220~~ must be provided in each local area through the One-Stop delivery system. (b) Follow-up services must be made available, for a minimum of 12 months following the first day of employment, to registered participants who are placed in unsubsidized employment.	We have made a technical correction to Sec. 663.150, to conform with the statutory requirement that follow-up services be made available ``as appropriate'' to the individual. This means that the intensity of the follow-up services provided to individuals may vary, depending upon the needs of the individual.

Sec. 663.160 Are there particular core services an individual must receive before receiving intensive services under WIA Section 134(d)(3)?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) Yes, at a minimum, an individual must receive at least one core service, such as an initial assessment or job search and placement assistance, before receiving intensive services. The initial assessment provides preliminary information about the individual's skill levels, aptitudes, interests, and supportive services needs. The job search and placement assistance helps the individual determine whether he or she is unable to obtain employment, and thus requires more intensive services to obtain employment. The decision on which core services to provide, and the timing of their delivery, may be made on a case-by-case basis at the local level depending upon the needs of the participant.	(a) ~~Yes. At~~ a minimum, an individual must receive at least one core service, such as an initial assessment or job search and placement assistance, before receiving intensive services. The initial assessment ~~determines~~ the individual's skill levels, aptitudes, and supportive services needs. The job search and placement assistance helps the individual determine whether he or she is unable to obtain employment, and thus requires more intensive services to obtain employment. The decision on which core services to provide, and the timing of their delivery, may be made on a case-by-case basis at the local level depending upon the needs of the participant.	As a core service, the initial assessment is necessarily a brief, preliminary information gathering process that, among other things, will provide sufficient information about an individual's basic literacy and occupational skill levels to enable the One-Stop operator to make appropriate referrals to services available through the One-Stop and partner programs.

Subpart B -- Intensive Services

Sec. 663.210 How are intensive services delivered?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) Intensive services must be provided through the One-Stop delivery system, including specialized One-Stop centers. Intensive services may be provided directly by	(a) Intensive services must be provided through the One-Stop delivery system. Intensive services may be provided directly by the One-Stop operator or through contracts	Section 134(d)(3)(B)(ii) of the Act provides that intensive services may be provided through contracts with service providers, which may include contracts with public, private for-profit,

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
the One-Stop operator or through contracts with service providers, which may include contracts with public, private for-profit, and private non-profit service providers (including specialized service providers), that are approved by the Local Board. (WIA Secs. 117(d)(2)(D) and 134(d)(3)(B).)	with service providers that are approved by the Local Board. (WIA Secs. 117(d)(2)(D) and 134(d)(3)(B).)	and private non-profit entities approved by the Local Board, and as noted, language has been added in the Final Rule at Sec. 663.210(a) to reflect the statutory provision on delivery of intensive services through contracts with service providers, and have clarified that such service providers may include specialized service providers.

Sec. 663.230 What criteria must be used to determine whether an employed worker needs intensive services to obtain or retain employment leading to ``self-sufficiency''?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
State Boards or Local Boards must set the criteria for determining whether employment leads to self-sufficiency. At a minimum, such criteria must provide that self-sufficiency means employment that pays at least the lower living standard income level, as defined in WIA Section 101(24). Self-sufficiency for a dislocated worker may be defined in relation to a percentage of the layoff wage. The special needs of individuals with disabilities or other barriers to employment should be taken into account when setting criteria to determine self-sufficiency.	State Boards or Local Boards must set the criteria for determining whether employment leads to self-sufficiency. At a minimum, such criteria must provide that self-sufficiency means employment that pays at least the lower living standard income level, as defined in WIA Section 101(24). Self-sufficiency for a dislocated worker may be defined in relation to a percentage of the layoff wage.	State and Local Boards are responsible for establishing the criteria for determining whether employment leads to self-sufficiency … We do, however, expect State and Local Boards to consider, among other things, the needs of individuals with disabilities, and other special needs populations with multiple barriers to employment, in the development of such criteria. We have modified Sec. 663.230 to reflect this expectation.

Subpart C -- Training Services

Sec. 663.310 Who may receive training services?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
Training services may be made available to employed and unemployed adults and dislocated workers who: (d) Are unable to obtain grant assistance from other sources to pay the costs of such training, including such sources as Welfare-to-Work, State-funded training funds, Trade Adjustment Assistance and Federal Pell Grants established under title IV of the Higher Education Act of 1965, or require WIA assistance in addition to	Training services may be made available to employed and unemployed adults and dislocated workers who: (d) Are unable to obtain grant assistance from other sources to pay the costs of such training, including Federal Pell Grants established under title IV of the Higher Education Act of 1965, or require WIA assistance in addition to other sources of grant assistance, including Federal Pell Grants (provisions relating to fund	The language in Sec. 663.310(d) has been changed to provide Welfare-to-Work and other examples in addition to the Pell Grant reference as appropriate to the eligibility of the individual involved for other training fund assistance.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
other sources of grant assistance, including Federal Pell Grants (provisions relating to fund coordination are found at Sec. 663.320 and WIA Section 134(d)(4)(B))	coordination are found at Sec. 663.320 and WIA Section 134(d)(4)(B)).	

Subpart D -- Individual Training Accounts

Sec. 663.420 Can the duration and amount of ITA's be limited?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) Limitations established by State or Local Board policies must be described in the State or Local Plan, respectively, but should not be implemented in a manner that undermines the Act's requirement that training services are provided in a manner that maximizes customer choice in the selection of an eligible training provider. ITA limitations may provide for exceptions to the limitations in individual cases. (d) An individual may select training that costs more than the maximum amount available for ITAs under a State or local policy when other sources of funds are available to supplement the ITA. These other sources may include: Pell Grants; scholarships; severance pay; and other sources.	(c) Limitations established by State or Local Board policies must be described in the State or Local Plan, respectively, but should not be implemented in a manner that undermines the Act's requirement that training services are provided in a manner that maximizes customer choice in the selection of an eligible training provider.	We have added language to Sec. 663.420(c) to clarify that any ITA limitations that are established may provide for exceptions to the limitations in individual cases. We believe that more effective programs will include this type of flexible limitation policies, so that individuals are not excluded from training solely because of an ITA limitation.

Subpart E -- Eligible Training Providers

Sec. 663.500 What is the purpose of this subpart?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
The workforce investment system established under WIA emphasizes informed customer choice, system performance, and continuous improvement. The eligible provider process is part of the strategy for achieving these goals. Local Boards, in partnership with the State, identify training providers and programs whose performance qualifies them to receive WIA funds to train adults and dislocated workers. In order to maximize customer choice and assure	The workforce investment system established under WIA emphasizes informed customer choice, system performance, and continuous improvement. The eligible provider process is part of the strategy for achieving these goals. Local Boards, in partnership with the State, identify training providers whose performance qualifies them to receive WIA funds to train adults and dislocated workers. After receiving core and intensive services and in consultation	We have added language throughout the subpart (in **Secs. 663.500, 663.510, 663.515,663.535, 663.550, 663.565, 663.570, 663.585, and 663.590**) to clarify that: • programs as well as providers must be eligible; • providers are eligible to provide training services only for the programs described in their applications;

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
that all significant population groups are served, States and local areas should administer the eligible provider process in a manner to assure that significant numbers of competent providers, offering a wide variety of training programs and occupational choices, are available to customers. After receiving core and intensive services and in consultation with case managers, eligible participants who need training use the list of these eligible providers to make an informed choice. The ability of providers to successfully perform, the procedures State and Local Boards use to establish eligibility, and the degree to which information, including performance information, on those providers is made available to customers eligible for training services, are key factors affecting the successful implementation of the Statewide workforce investment system. This subpart describes the process for determining eligible training providers.	with case managers, eligible participants who need training use the list of these eligible providers to make an informed choice. The ability of providers to successfully perform, the procedures State and Local Boards use to establish eligibility, and the degree to which information, including performance information, on those providers is made available to customers eligible for training services, are key factors affecting the successful implementation of the Statewide workforce investment system. This subpart describes the process for determining eligible training providers.	• the Local Board and the Governor may require application information on providers as institutions, in addition to information regarding programs; • application requirements for all programs not eligible under the Higher Education Act nor registered under the National Apprenticeship Act (regardless of the type of provider) fall under the Governor's initial eligibility procedures; • providers submit performance information on programs and those programs that don't meet performance levels must be removed from local lists; • providers may continue to be eligible if at least one of their programs is eligible (even if other of their programs are determined ineligible and removed from the local and State lists); and • State and local lists must include information on eligible training programs as well as providers.

Sec. 663.508 What is a ``program of training services''?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
A program of training services is one or more courses or classes, or a structured regimen, that upon successful completion, leads to: (a) A certificate, an associate degree, baccalaureate degree, or (b) The skills or competencies needed for a specific job or jobs, an occupation, occupational group, or generally, for many types of jobs or occupations, as recognized by employers and determined prior to training.	A program of training services is: ~~(a) O~~ne or more courses or classes that~~,~~ upon successful completion, leads to: ~~(1) A~~ certificate, an associate degree, or baccalaureate degree, or ~~(2) A competency or skill recognized by employers, or~~ ~~(b) A training regimen that provides individuals with additional skills or competencies generally~~ recognized by employers.	Section 663.508 has been revised to clarify that a program of training services can consist of one or more courses or a training regimen, and that either of these can lead to a formal credential (such as a degree or certificate) or to the acquisition of skills and competencies recognized by employers for a specific job or occupation, as well as general skills and competencies necessary for a broad range of occupations, or job readiness. Section 663.508 has also been changed to indicate that the skills and competencies should be recognized by employers and identified in advance. Such competencies may include literacy or English language abilities.

Sec. 663.510 Who is responsible for managing the eligible provider process?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) The Governor must designate a State agency (called the ``designated State agency'') to assist in carrying out WIA Section 122. The designated State agency is responsible for: (1) Developing and maintaining the State list of eligible providers and programs, which is comprised of lists submitted by Local Boards; (2) Determining if programs meet performance levels, including verifying the accuracy of the information on the State list in consultation with the Local Boards, removing programs that do not meet program performance levels, and taking appropriate enforcement actions, against providers in the case of the intentional provision of inaccurate information, as described in WIA Section 122(f)(1), and in the case of a substantial violation of the requirements of WIA, as described in WIA Section 122(f)(2);	(c) The Governor must designate a State agency (called ``designated State agency'') to assist in carrying out WIA Section 122. The designated State agency is responsible for: (1) Developing and maintaining the State list of eligible providers, which is comprised of lists submitted by Local Boards; (2) Verifying the accuracy of the information on the State list, in consultation with the Local Boards, removing ~~providers who~~ do not meet program performance levels, and taking appropriate enforcement actions, against providers in the case of the intentional provision of inaccurate information, as described in WIA Section 122(f)(1), and in the case of a substantial violation of the requirements of WIA, as described in WIA Section 122(f)(2);	We have changed the language in **Sec. 663.510(c)(2)** to clarify that the State agency must determine if programs meet performance levels, and, in so doing, may verify the accuracy the performance information submitted.

Sec. 663.515 What is the process for initial determination of provider eligibility?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) To be eligible to receive adult or dislocated worker training funds under title I of WIA, all providers must submit applications to the Local Boards in the areas in which they wish to provide services. The application must describe each program of training services to be offered.	(a) ~~For postsecondary educational institutions that are eligible to receive assistance under title IV of the Higher Education Act, and that provide a program that leads to an associate or baccalaureate degree or certificate, and for entities carrying out apprenticeship programs registered under the National Apprenticeship Act to be initially eligible to receive adult or dislocated worker training funds under title I of WIA, the institution or entity must submit an application to the Local Board(s) for the local area(s) in which the provider desires to provide training services that describes each program of~~	

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
	~~training services, as defined in Sec. 663.508, that leads to such a degree or certificate or is registered under the National Apprenticeship Act.~~	
(b) For programs eligible under title IV of the Higher Education Act and apprenticeship programs registered under the National Apprenticeship Act (NAA), and the providers or such programs, Local Boards determine the procedures to use in making an application. The procedures established by the Local Board must specify the timing, manner, and contents of the required application.	(b) Local Boards determine the procedures to use in making an application ~~under paragraph (a) of this section. The Local Board procedures~~ must specify the timing, manner, and contents of the required application.	
(c) For programs not eligible under title IV of the HEA or registered under the NAA, and for providers not eligible under title IV of the HEA or carrying out apprenticeship programs under NAA:	(c) ~~For other providers,~~	To assure there is adequate time for comments, while permitting as much State flexibility as possible, we have added language at [Sec.] 663.515(c)(1)(iii) … to require Governors to establish and adhere to a specific time period for the consultation and comment process during the development of procedures for initial and subsequent eligibility.
(1) The Governor must develop a procedure for use by Local Boards for determining the eligibility of other providers, after	(1) The Governor must develop a procedure for use by Local Boards for determining the eligibility of other providers, after	
(iii) Designating a specific time period for soliciting and considering the recommendations of Local Boards and provider, and for providing an opportunity for public comment.		
(d) The Local Board must include providers that meet the requirements of paragraphs (b) and (c) of this Section on a local list and submit the list to the designated State agency. The State agency has 30 days to determine that the provider or its programs do not meet the requirements relating to the providers under paragraph (c) of this section. After the agency determines that the provider and its programs	(d) The Local Board must include providers that meet the requirements of paragraphs ~~(a)~~ and (c) of this Section on a local list and submit the list to the designated State agency. The State agency has 30 days to ~~verify the information~~ relating to the providers under paragraph (c) of this section. After the agency ~~verifies~~ that the provider ~~meets~~ the criteria for initial eligibility, or 30 days have elapsed, whichever occurs first,	We have also revised **Sec. 663.515(d)** to clarify that the designated State agency determines if the performance levels are met for programs Local Boards submit as part of their local list. In addition, since State agency consultation with the Local Board is required under Section 122(f)(1) and verifiable information is required to be submitted to the Local Board, we believe that the Act also provides implicit authority to

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
meet(s) the criteria for initial eligibility, or 30 days have elapsed, whichever occurs first, the provider and its programs are initially eligible. The programs and providers submitted under paragraph (b) of this section are initially eligible without State agency review. (WIA Sec. 122(e).)	the provider is initially eligible ~~as a provider of training services~~. The providers submitted under paragraph ~~(a)~~ of this Section are initially eligible without State agency review. (WIA Section 122(e).)	Local Boards to verify performance information and to report suspected inaccuracies to the State agency.

Sec. 663.530 Is there a time limit on the period of initial eligibility for training providers?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
Yes, under WIA Section 122(c)(5), the Governor must require training providers to submit performance information and meet performance levels annually in order to remain eligible providers. States may require that these performance requirements be met one year from the date that initial eligibility was determined, or may require all eligible providers to submit performance information by the same date each year. If the latter approach is adopted, the Governor may exempt eligible providers whose determination of initial eligibility occurs within six months of the date of submissions. The effect of this requirement is that no training provider may have a period of initial eligibility that exceeds eighteen months. In the limited circumstance when insufficient data is available, initial eligibility may be extended for a period of up to six additional months, if the Governor's procedures provide for such an extension.	~~Yes. Under~~ WIA Section 122(c)(5), the Governor must require training providers to submit performance information and meet performance levels annually in order to remain eligible providers. States may require that these performance requirements be met one year from the date that initial eligibility was determined, or may require all eligible providers to submit performance information by the same date each year. If the latter approach is adopted, the Governor may exempt eligible providers whose determination of initial eligibility occurs within six months of the date of submissions. The effect of this requirement is that no training provider may have a period of initial eligibility that exceeds eighteen months.	We have added language in Sec. 663.530 to provide that, in the limited circumstance when insufficient data is available, initial eligibility may be extended for a period of up to six additional months, if the Governor's procedures provide for such an extension.

Sec. 663.535 What is the process for determining of the subsequent eligibility of a provider?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) The Governor must develop a procedure for the Local Board to use in determining the subsequent eligibility of all eligible training providers determined initially eligible under Sec. 663.515 (b) and (c), after:	(a) The Governor must develop a procedure for the Local Board to use in determining the subsequent eligibility of all eligible training providers determined initially eligible under Sec. 663.515 ~~(a)~~ and (c), after:	To assure there is adequate time for comments, while permitting as much State flexibility as possible, we have added language at … 663.535(a)(3) to require Governors to establish and adhere to a specific time period for the consultation and comment process during the

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(3) Designating a specific time period for soliciting and considering the recommendations of Local Boards and providers, and for providing an opportunity for public comment.		development of procedures for initial and subsequent eligibility.

Sec. 663.540 What kind of performance and cost information is required for determinations of subsequent eligibility?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) Governors must establish procedures by which providers can demonstrate if the additional information required under paragraph (b) of this Section imposes extraordinary costs on providers, or if providers experience extraordinary costs in the collection of information. If, through these procedures, providers demonstrate that they experience such extraordinary costs:	(c) ~~If the additional information required under paragraph (b) of this Section imposes extraordinary costs on providers, or if providers experience extraordinary costs in the collection of information,~~	The Act requires Governors to provide additional resources or cost-effective methods of data collection when providers experience extraordinary costs in providing required information, under Section 122(d)(1)(A)(ii), on program participants who receive assistance under the adult or dislocated worker programs, or in providing additional information under Section 122(d)(2). In order to assure that Governors provide such assistance, Sec. 663.540(c) has been revised to require that the Governor establish procedures by which such costs can be determined.

Sec. 663.565 May an eligible training provider lose its eligibility?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(b) If the provider's programs do not meet the established performance levels, the programs will be removed from the eligible provider list. (1) A Local Board must determine, during the subsequent eligibility determination process, whether a provider's programs meet performance levels. If the program fails to meet such levels, the program must be removed from the local list. If all of the provider's programs fail to meet such levels, the provider must be removed from the local list. (2) The designated State agency upon receipt of the performance information accompanying	(b) If the ~~provider does~~ not meet the established performance levels, ~~it~~ will be removed from the eligible provider list. (1) A Local Board must determine, during the subsequent eligibility determination process, whether a ~~provider meets~~ performance levels. If the ~~provider~~ fails to meet such levels, the ~~provider~~ must be removed from the local list. (2) The designated State agency upon receipt of the performance information accompanying the	

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
the local list, may remove programs from the State list if the agency determines the program failed to meet the levels of performance prescribed under Sec. 663.535(c). If all of the provider's programs are determined to have failed to meet the levels, the designated State agency may remove the provider from the State list. (3) Providers determined to have intentionally supplied inaccurate information or to have subsequently violated any provision of title I of WIA or the WIA regulations, including 29 CFR part 37, may be removed from the list in accordance with the enforcement provisions of WIA Section 122(f). A provider whose eligibility is terminated under these conditions is liable to repay all adult and dislocated worker training funds it received during the period of noncompliance.	local list, may remove ~~a provider~~ from the State list if the agency determines ~~the provider~~ failed to meet the levels of performance prescribed under Sec. 663.535(c). (3) Providers determined to have intentionally supplied inaccurate information or to have subsequently violated any provision of title I of WIA or ~~these~~ regulations may be removed from the list in accordance with the enforcement provisions of WIA Section 122(f). A provider whose eligibility is terminated under these conditions is liable to repay all adult and dislocated worker training funds it received during the period of noncompliance.	If a State or Local Board asks for information about accreditation status or compliance with laws and the provider submits inaccurate information, it may be subject to termination under Sec. 663.565(b)(3).

Subpart F-- Priority and Special Populations

Sec. 663.620 How do the Welfare-to-Work program and the TANF program relate to the One-Stop delivery system?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) The local Welfare-to-Work (WtW) program operator is a required partner in the One-Stop delivery system. 20 CFR part 662 describes the roles of such partners in the One-Stop delivery system and applies to the Welfare-to-Work program operator. WtW programs serve individuals who may also be served by the WIA programs and, through appropriate linkages and referrals, these customers will have access to a broader range of services through the cooperation of the WtW program in the One-Stop system. WtW participants, who are determined to be WIA eligible, and who need occupational skills training may be referred through the One-Stop system to receive WIA	(a) The local Welfare-to-Work (WtW) program operator is a required partner in the One-Stop delivery system. 20 CFR part 662 describes the roles of such partners in the One-Stop delivery system and applies to the Welfare-to-Work program operator. WtW programs serve individuals who may also be served by the WIA programs and, through appropriate linkages and referrals, these customers will have access to a broader range of services through the cooperation of the WtW program in the One-Stop system. WtW participants, who are determined to be WIA eligible, and who need occupational skills training may be referred through the One-Stop system to receive WIA	

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
training, when WtW grant and other grant funds are not available in accordance with Sec. 663.320(a). WIA participants who are also determined WtW eligible, may be referred to the WtW operator for job placement and other WtW assistance.	training. WIA participants who are also determined WtW eligible, may be referred to the WtW operator for job placement and other WtW assistance.	

Sec. 663.700 What are the requirements for on-the-job training (OJT)?

WIA Final Rule -- August 11, 2000	WIA Interim Rule -- April 15, 1999	Preamble - Final Rule
(a) On-the-job training (OJT) is defined at WIA Section 101(31). OJT is provided under a contract with an employer in the public, private non-profit, or private sector. Through the OJT contract, occupational training is provided for the WIA participant in exchange for the reimbursement of up to 50 percent of the wage rate to compensate for the employer's extraordinary costs. (WIA Sec. 101(31)(B).)	(a) On-the-job training (OJT) is defined at WIA Section 101(31). OJT is provided by an employer in the public, private non-profit, or private sector. ~~A contract may be developed between the employer and the local program that provides occupational training for the WIA participant in exchange for the reimbursement of up to 50 percent of the wage rate to compensate for the employer's extraordinary costs. (WIA Section 101(31)(B).)~~	The language in Sec. 663.700(a) has been changed to clarify that OJT must be provided through a contractual arrangement as an exception to the ITA requirement under WIA Section 134(d)(4)(G)(ii)(I). We believe that written agreements are necessary to ensure that the requirements of OJT are met.

Sec. 663.730 May funds provided to employers for OJT of customized training be used to assist, promote, or deter union organizing?

WIA Final Rule -- August 11, 2000	WIA Interim Rule -- April 15, 1999	Preamble - Final Rule
No, funds provided to employers for OJT or customized training must not be used to directly or indirectly assist, promote or deter union organizing.	(No text)	A commenter suggested that to assure compliance with WIA Section 181(b)(7), OJT and customized training contracts be required to include a provision guarantees that customized training funds or subsidies will not be used directly or indirectly to assist, promote or deter union organizing. Response: We don't believe it is appropriate to mandate the inclusion of a particular provision in these contracts. However, we have specifically identified this prohibition in new Sec. 663.730 to ensure that this information is readily available to practitioners.

PART 664 --YOUTH ACTIVITIES UNDER TITLE I

Subpart A -- Youth Councils

Sec. 664.110 Who is responsible for oversight of youth programs in the local area?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) The Local Board may, after consultation with the CEO, delegate its responsibility for oversight of eligible youth providers, as well as other youth program oversight responsibilities, to the youth council, recognizing the advantage of delegating such responsibilities to the youth council whose members have expertise in youth issues. (WIA Sec. 117(d); 117(h)(4).)	(c) The Local Board may delegate its responsibility for oversight of eligible youth providers, as well as other oversight responsibilities, to the youth council, recognizing the advantage of delegating such responsibilities to the youth council whose members have expertise in youth issues. (WIA Sec. 117(h)(4).)	…it may be advantageous for Local Boards, in consultation with local area CEO, to delegate the responsibility for oversight of youth programs to youth councils which have expertise in youth issues, as is permitted by Sec. 664.110. Section 664.110(c) has been revised to reflect this comment.

Subpart B -- Eligibility for Youth Services

Sec. 664.205 How is the ``deficient in basic literacy skills'' criterion in Sec. 664.200(c)(1) defined and documented?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) Definitions and eligibility documentation requirements regarding the ``deficient in basic literacy skills'' criterion in Sec. 664.200(c)(1) may be established at the State or local level. These definitions may establish such criteria as are needed to address State or local concerns, and must include a determination that an individual: (1) Computes or solves problems, reads, writes, or speaks English at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test; or (2) Is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family or in society. (WIA Secs. 101(19), 203(12).)	(a) Definitions and eligibility documentation requirements regarding the ``deficient in basic literacy skills'' criterion in Sec. 664.200(c)(1) may be established at the State or local level. These definitions may establish such criteria as are needed to address State or local concerns, but must include a determination that an individual: (1) Computes or solves problems, reads, writes, or speaks English at or below ~~grade level 8.9;~~ or (2) Is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family or in society.	We received a comment suggesting that we make the definition of basic literacy skills at Sec. 664.205 consistent with the definition of basic skills deficient in Section 101(4) the Act, in order to eliminate confusion. Section 664.205 addresses the criterion for documenting general eligibility when determining whether youth are deficient in basic literacy skills. The regulatory definition of ``deficient in basic literacy skills'' is based on the statutory definition of the term ``literacy'' found in WIA Section 203 and cross-referenced in WIA Section 101(19). Therefore, the terms and their definitions are not identical. The flexibility provided at Sec. 664.205(a) as revised, would allow States and/or local areas which choose to do so to define the term in a way in which an individual who is determined to be ``deficient in basic literacy skills'' on the basis of the grade level criteria, will also be

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
		considered to be ``basic skills deficient'' for purposes of determining whether the out-of-school youth or 5% youth standards are met.

Sec. 664.215 Must youth participants be registered to participate in the youth program?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) Equal opportunity data must be collected during the registration process on any individual who has submitted personal information in response to a request by the recipient for such information.	~~(c) EEO data must be collected on individuals during the registration process.~~	EO data must be collected for every individual who is interested in being considered for WIA title I financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request by the recipient. See 29 CFR 37.4 (definition of ``applicant'') and 29 CFR 37.37. This includes all youth participants.

Subpart C -- Out of School Youth

Sec. 664.310 When is dropout status determined, particularly for youth attending alternative schools?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
A school dropout is defined as an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent. A youth's dropout status is determined at the time of registration. A youth attending an alternative school at the time of registration is not a dropout. An individual who is out-of school at the time of registration and subsequently placed in an alternative school, may be considered an out- of-school youth for the purposes of the 30 percent expenditure requirement for out-of-school youth. (WIA Sec. 101(39).)	~~No. A school dropout is defined as an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent. A youth attending an alternative school is not a dropout. (WIA Sec. 101(39).) [[Page 18715]]~~	We have revised Sec. 664.310 to clarify that a youth's dropout status is determined at the time of registration. Therefore, an individual who is out-of-school at the time of registration and subsequently placed in an alternative school, may be considered an out-of-school youth for the purposes of the 30 percent expenditure requirement for out-of-school youth. We also received comments suggesting that Sec. 664.310 should make it clear that, for the purposes of determining whether a youth in an alternative school can be considered out-of-school, their dropout status should be determined at the point of intake.

Subpart D -- Youth Program Design, Elements and Parameters

Sec. 664.400 What is a local youth program?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
A local youth program is defined as those youth activities offered by a Local Workforce Investment Board for a designated local workforce investment area, as specified in 20 CFR part 661.	(Sec. 664.400 redesignated to Sec. 664.405 with amendment)	Response: We agree. Section 664.310 is revised to clarify that dropout status is determined at the time of registration. WIA requires that Local Boards must ensure that all ten elements are available for youth in their local area. To provide further guidance to assist Local Boards, we added a new Sec. 664.400 to define the composition of a local youth program and to address the difference between local programs and local program operators.

Sec. 664.405 How must local youth programs be designed?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) The design framework of local youth programs must: (2) Develop an individual service strategy for each youth participant that meets the requirements of WIA Section 129(c)(1)(B), including identifying an **age-appropriate** career goal and consideration of the assessment results for each youth; and	(None)	We redesignated Sec. 664.400 of the Interim Final Rule as Sec. 664.405 and have added a provision which we discuss below. We have added the phrase ``age-appropriate'' to redesignated Sec. 664.405(a)(2) to clarify that the career goals selected should appropriate for the age of the youth participant.

Sec. 664.410 Must local programs include each of the ten program elements listed in WIA Section 129(c)(2) as options available to youth participants?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) Yes, local programs must make the following services available to youth participants: (6) Leadership development opportunities, which include community service and peer-centered activities encouraging responsibility and other positive social behaviors;	(a) Yes, local programs must make the following services available to youth participants: (6) Leadership development opportunities, ~~which may include such activities as positive social behavior and soft skills, decision making, team work, and other activities, as provided in Secs. 664.420 and 664.430 of this part;~~	Section 664.410(a) makes it clear that the Local Board must ensure that all ten elements are available for youth in their local area.

Sec. 664.420 What are leadership development opportunities?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
Leadership development opportunities are opportunities that encourage responsibility, employability, and other positive social behaviors such as: (a) Exposure to postsecondary educational opportunities; (b) Community and service learning projects; (c) Peer-centered activities, including peer mentoring and tutoring; (d) Organizational and team work training, including team leadership training; (e) Training in decision-making, including determining priorities; and (f) Citizenship training, including life skills training such as parenting, work behavior training, and budgeting of resources. (WIA Sec. 129(c)(2)(F).)	Leadership development opportunities for youth may include the following: ~~(g) Employability; and~~ ~~(h) Positive social behaviors.~~ ~~(WIA Sec. 129(c)(2)(F).)~~	

Sec. 664.430 What are positive social behaviors?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
Positive social behaviors are outcomes of leadership opportunities, often referred to as soft skills, which are incorporated by many local programs as part of their menu of services. Positive social behaviors focus on areas that may include the following: (a) Positive attitudinal development; (b) Self esteem building; (c) Openness to working with individuals from diverse racial and ethnic backgrounds; (d) Maintaining healthy lifestyles, including being alcohol and drug free;	Positive social behaviors, often referred to as soft skills, are incorporated by many local programs as part of their menu of services which focus on areas that may include, but are not limited to, the following: (a) Positive attitudinal development; (b) Self esteem building; ~~(c) Cultural diversity training; and~~ ~~(d) Work simulation activities.~~ ~~(WIA Sec. 129(c)(2)(F).)~~	A commenter suggested that the rules define ``positive social behaviors'' and make it clear that positive social behaviors are outcomes of leadership opportunities. Response: We have added these suggestions to the list of positive social behaviors in Sec. 664.430 because we think that the original list of examples was too narrow to reflect the full range of positive social behaviors. As a technical correction, we have removed the phrase ``but not limited to'' from this section. This does not change the meaning of this provision. Here, as throughout the regulations, the term ``include'' is used to indicate an illustrative, but not exhaustive list of examples.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(e) Maintaining positive relationships with responsible adults and peers, and contributing to the well being of one's community, including voting; (f) Maintaining a commitment to learning and academic success; (g) Avoiding delinquency; (h) Postponed and responsible parenting; and (i) Positive job attitudes and work skills. (WIA Sec.129(c)(2)(F).)		

Sec. 664.460 What are work experiences for youth?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) Work experiences are designed to enable youth to gain exposure to the working world and its requirements. Work experiences are appropriate and desirable activities for many youth throughout the year. Work experiences should help youth acquire the personal attributes, knowledge, and skills needed to obtain a job and advance in employment. The purpose is to provide the youth participant with the opportunities for career exploration and skill development and is not to benefit the employer, although the employer may, in fact, benefit from the activities performed by the youth. Work experiences may be subsidized or unsubsidized and may include the following elements: (1) Instruction in employability skills or generic workplace skills such as those identified by the Secretary's Commission on Achieving Necessary Skills (SCANS); (2) Exposure to various aspects of an industry; (3) Progressively more complex tasks;	(c) Work experiences are designed to enable youth to gain exposure to the working world and its requirements. Work experiences should help youth acquire the personal attributes, knowledge, and skills needed to obtain a job and advance in employment. The purpose is to provide the youth participant with the opportunities for career exploration and skill development and is not to benefit the employer, although the employer may, in fact, benefit from the activities performed by the youth. Work experiences may be subsidized or unsubsidized and may include the following elements: (1) Instruction in employability skills or generic workplace skills such as those identified by the Secretary's Commission on Achieving Necessary Skills (SCANS); (2) Exposure to various aspects of an industry; (3) Progressively more complex tasks;	Section 664.460 provides that work experiences may be in the private for-profit sector, the nonprofit sector, or the public sector, and gives examples of the types of activities that work experiences may include, such as internships and job shadowing…paid and unpaid community service programs may be appropriate types of work experiences for youth, and have amended the list of examples in Sec. 664.460(c) to include them.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(4) Internships and job shadowing; (5) The integration of basic academic skills into work activities; (6) Supported work, work adjustment, and other transition activities; (7) Entrepreneurship; (8) Service learning; (9) Paid and unpaid community service; and (10) Other elements designed to achieve the goals of work experiences.	(4) Internships and job shadowing; (5) The integration of basic academic skills into work activities; (6) Supported work, work adjustment, and other transition activities; (7) Entrepreneurship; and ~~(8) Other elements designed to achieve the goals of work experience.~~	

Sec. 664.610 How is the summer employment opportunities element administered?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
Chief elected officials and Local Boards are responsible for ensuring that the local youth program provides summer employment opportunities to youth. The chief elected officials (which may include local government units operating as a consortium) are the grant recipients for local youth funds, unless another entity is chosen to be grant recipient or fiscal agent under WIA Section 117(d)(3)(B). If, in the administration of the summer employment opportunities element of the local youth program, providers other than the grant recipient/ fiscal agent, are used to provide summer youth employment opportunities, these providers must be selected by awarding a grant or contract on a competitive basis, based on the recommendation of the youth council and on criteria contained in the State Plan. However, the selection of employers who are providing unsubsidized employment opportunities may be excluded from the competitive process. (WIA Sec. 129(c)(2)(C).)	Chief elected officials and Local Boards are responsible for ensuring that the local youth program provides summer employment opportunities to youth. The chief elected officials are the grant recipients for local youth funds, unless another entity is chosen to be grant recipient or fiscal agent under WIA Section 117(d)(3)(B). If, in the administration of the summer employment opportunities element of the local youth program, providers other than the grant recipient/fiscal agent are used to provide summer youth employment opportunities, these providers must be selected by awarding a grant or contract on a competitive basis, based on the recommendation of the youth council and on criteria contained in the State Plan. (WIA Sec. 129(c)(2)(C).)	Commenters suggested that we: • clarify that local government units operating summer youth employment opportunities as a consortium may provide summer youth opportunities without competitive bidding. • allow the selection of private sector unsubsidized employment opportunities to be excluded from the competitive process. Response: We agree and Sec. 664.610 has been revised accordingly.

PART 665 STATEWIDE WORKFORCE INVESTMENT ACTIVITIES UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Subpart B -- Required and Allowable Statewide Workforce Investment Activities

Sec. 665.220 Who is an ``incumbent worker'' for purposes of Statewide workforce investment activities?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
States may establish policies and definitions to determine which workers, or groups of workers, are eligible for incumbent worker services under this subpart. An incumbent worker is an individual who is employed, but an incumbent worker does not necessarily have to meet the eligibility requirements for intensive and training services for employed adults and dislocated workers at 20 CFR 663.220(b) and 663.310. (WIA Sec. 134(a)(3)(A)(iv)(I).)	States may establish policies and definitions to determine which workers are eligible for incumbent worker services under this subpart. An incumbent worker is an individual who is employed, but an incumbent worker does not necessarily have to meet the eligibility requirements for intensive and training services for employed adults and dislocated workers at 20 CRF 663.220(a)(2) and 663.310. (WIA Sec. 134(a)(3)(A)(iv)(I).)	We have added the phrase ``or groups of workers'' to Sec. 665.220 to clarify that groups of workers, in addition to individual workers, may be determined eligible for incumbent worker training, and that the eligibility determination for the ``group'' does not have to be done on an individual basis.

Subpart C--Rapid Response Activities

Sec. 665.330 Are the NAFTA-TAA program requirements for rapid response also required activities?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
The Governor must ensure that rapid response activities under WIA are made available to workers who, under the NAFTA Implementation Act (Public Law 103-182), are members of a group of workers (including those in any agricultural firm or subdivision of an agricultural firm) for which the Governor has made a preliminary finding that: (a) A significant number or proportion of the workers in such firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated; and (b) Either: (1) The sales or production, or both, of such firm or subdivision have decreased absolutely; and	Those in any agricultural firm or subdivision of an agricultural firm) for which the Governor has made a finding that: (a) The sales or production, or both, of such firm or subdivision have decreased absolutely, and (b)(1) ~~Imports from Mexico or Canada of articles like or directly competitive with those produced by such firm or subdivision have increased; or~~	Section 665.330 requires rapid response to be available when the Governor makes a preliminary finding that NAFTA-TAA certification criteria have been met. A commenter suggested that the final rule clearly state that the Secretary makes the final determination on NAFTA-TAA eligibility for a group of workers covered by a petition. Response: We agree that the clarification is appropriate. In order to clarify the rule, we have revised this provision to indicate that the requirement that rapid response be made available occurs when the Governor makes a ``preliminary finding'' that the NAFTA-TAA certification criteria have been met.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(2) Imports from Mexico or Canada of articles like or directly competitive with those produced by such firm or subdivision have increased; or (c) There has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles which are produced by the firm or subdivision.	(2) ~~There has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles which are produced by the firm or subdivision.~~	

Part 666 -- PERFORMANCE ACCOUNTABILITY UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Subpart A -- State Measures of Performance

Sec. 666.100 What performance indicators must be included in a State's plan?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) All States submitting a State Plan under WIA Title I, subtitle B must propose expected levels of performance for each of the core Indicators of performance for the adult, dislocated worker and youth programs, respectively and the two customer satisfaction indicators. (3) For the Youth program, these indicators are: (i) For eligible youth aged 14 through 18: (A) Attainment of basic skills goals, and, as appropriate, work readiness or occupational skills goals, up to a maximum of three goals per year;	(a) All States submitting a State Plan under WIA Title I, subtitle B must propose expected levels of performance for each of the core indicators of performance for the adult, dislocated worker and youth programs, respectively and the two customer satisfaction indicators. (3) For the Youth program, these indicators are: (i) For eligible youth aged 14 through 18: (A) Attainment of basic skills, and, as appropriate, work readiness or occupational skills;	In response to a comment that attainment of basic skills was too general and not necessarily related to program services, Sec. 666.100(a)(3)(i) was clarified to reflect the basic program design for youth that establishes one or more goals for participants each year. Attainment of basic skills goals, and, as appropriate, work readiness or occupational skills goals, is, therefore, a more accurate way to describe the measure, but it is limited to no more than three goals per year. Use of the term ``goals'' in reference to these difference skills acknowledges that obtaining skills, especially for younger youth, is an incremental process.

Sec. 666.120 What are the procedures for negotiating annual levels of performance?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(d) The levels of performance agreed to under paragraph (c) of this section will be the State's negotiated levels of performance for the first three years of the State Plan. These levels will be used to determine whether sanctions	(d) The levels of performance agreed to under paragraph (c) of this section will be the State's ~~adjusted~~ levels of performance for the first three years of the State Plan. These levels will used to determine whether sanctions will	The negotiation of performance levels for programs under Title I B will be part of the process of reviewing and approving the State Plans. To help clarify and reflect the goal of the process, the term ``adjusted level'' has been replaced with the term

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
will be applied or incentive grant funds will be awarded. (f) The levels of performance agreed to under paragraph (e) of this section will be the State negotiated levels of performance for the fourth and fifth years of the plan and must be incorporated into the State Plan. (g) Levels of performance for the additional indicators developed by the Governor, including additional indicators to demonstrate and measure continuous improvement toward goals identified by the State, are not part of the negotiations described in paragraphs (c) and (e) of this section. (WIA Sec. 136(b)(3).) (h) State negotiated levels of performance may be revised in accordance with Sec. 666.130.	be applied or incentive grant funds will be awarded. (f) The levels of performance agreed to under paragraph (e) of this section will be the State ~~adjusted~~ levels of performance for the fourth and fifth years of the plan and must be incorporated into the State Plan. (g) Levels of performance for the additional indicators developed by the Governor ~~are considered to be State adjusted levels of performance, but~~ are not part of the negotiations described in paragraphs (c) and (e) of this section. (WIA Sec. 136(b)(3).) (h) State ~~adjusted~~ levels of performance may be revised in accordance with Sec. 666.130 ~~of this subpart~~.	``negotiated level'' throughout the regulations to refer to the outcome of the process and the resulting numerical levels of performance for each indicator that will be used to determine whether sanctions will be applied or incentive grant funds will be awarded. Continuous improvement is desirable even in areas not directly measurable by performance measures, like increasing administrative efficiency. Language has been added to Sec. 666.120(g) to more clearly provide States with the opportunity to define areas targeted for continuous improvement that may be in addition to the indicators of performance required under Sec. 666.100.

Sec. 666.140 Which individuals receiving services are included in the core indicators of performance?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) (2) Self-service and informational activities are those core services that are made available and accessible to the general public, that are designed to inform and educate individuals about the labor market and their employment strengths, weaknesses, and the range of services appropriate to their situation, and that do not require significant staff involvement with the individual in terms of resources or time. (c) Performance will be measured on the basis of results achieved by registered participants, and will reflect services provided under WIA Title I, subtitle B programs for adults, dislocated workers and youth. Performance may also take into account services provided to participants by other One-Stop partner programs and activities, to the extent that the local MOU provides for the sharing of participant information.	(No text)	To clarify the issue of registration, paragraph (a)(2) to Sec. 666.140 was added a new to explain that ``self-service and informational activities'' are core services consisting of widely available information that does not require significant staff involvement with the individual in terms of resources or time. Performance will be measured by looking at outcomes and results achieved by each registered participant following receipt of services under Title I B and any other services provided by a partner in the local One-Stop system. This clarification has been included in a new paragraph (c) to Sec. 666.140.

Sec. 666.150 What responsibility do States have to use quarterly wage record information for performance accountability?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) States must, consistent with State laws, use quarterly wage record information in measuring the progress on State and local performance measures. In order to meet this requirement the use of social security numbers from registered participants and such other information as is necessary to measure the progress of those participants through quarterly wage record information is authorized.	(a) States must, consistent with State law, use quarterly wage record information in measuring the progress on State and local performance measures.	In order for States to meet this requirement, Sec. 666.150(a) has been amended to authorize the collection and other use of social security numbers from registered participants and such other information as is necessary to accurately track the results of the participants through wage records.

Subpart B -- Incentives and Sanctions for State Performance

Sec. 666.240 Under what circumstances may a sanction be applied to a State that fails to achieve negotiated levels of performance for Title I?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(d) In accordance with 20 CFR 667.300(e), a State grant may be reduced for failure to submit an annual performance progress report.	(No text)	As a result of consultation with partners and stakeholders, we have clarified the process for determining acceptable and unacceptable performance by establishing a range so that a State's performance will be deemed to be acceptable if the actual performance falls within 20 percent of the negotiated level. Therefore, sanctions will not be considered unless actual performance is more than 20 percent below the negotiated level. This rule has been included as a new provision at Sec. 666.240(d).

PART 667 -- ADMINISTRATIVE PROVISIONS UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

Subpart A – Funding

Sec. 667.105 What award document authorizes the expenditure of Workforce Investment Act funds under Title I of the Act?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) Indian and Native American Programs. (2) A grant, contract or cooperative agreement may be renewed under the authority of paragraph (c)(1) of this section no more than	(c) Indian and Native American Programs. (2) No text	

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
once during any four-year period for any single recipient. (d) National Farmworker Jobs programs. (1) Awards of grants or contracts for the National Farmworker Jobs program will be made to eligible entities on a competitive basis every two program years for a two-year period, in accordance with the provisions of 20 CFR part 669. An award for the succeeding two-year period may be made to the same recipient if the recipient: (i) Has performed satisfactorily; and (ii) Submits a satisfactory two-year program plan for the succeeding two-year period.	(d) Migrant and Seasonal Farmworker Programs. (1) Awards of grants or contracts for the ~~Migrant and Seasonal Farmworker~~ program will be made to eligible entities on a competitive basis every two program years for a two-year period, in accordance with the provisions of 20 CFR part 669. An award for the succeeding two-year period may be made to the same recipient if the recipient: (i) Has performed satisfactorily; and (ii) Submits a satisfactory two-year program plan for the succeeding two-year period.	To improve the fairness and effectiveness of the appeals process, Sec. 667.105(c) was modified to permit INA grants to be awarded to a particular grantee without competition only once during a four year period. Similar procedures are already included in Sec. 667.105(d) for the MSFW program. DOL's position is that the successful appellant does have the right to compete for a grant award for the second two years of a four year designation period, and we have revised Section 667.825 to provide that we will not give a waiver of competition for the second two-year grant period in these situations.

Sec. 667.135 What ``hold harmless'' provisions apply to WIA adult and youth allocations?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a)(1) For the first two fiscal years after the date on which a local area is designated under Section 116 of WIA, the State may elect to apply the ``hold harmless'' provisions specified in paragraph (b) of this section to local area allocations of WIA youth funds under Sec. 667.130(c) and to allocations of WIA adult funds under Sec. 667.130(d). (2) Effective at the end of the second full fiscal year after the date on which a local area is designated under Section 116 of WIA the State must apply the ``hold harmless'' specified in paragraph (b) of this section to local area allocations of WIA youth funds under Sec. 667.130(c) and to allocations of WIA adult funds under Sec. 667.130(d).  (3) There are no ``hold harmless'' provisions that apply to local area allocations of WIA dislocated worker funds.	(No text)	Consistent with the new hold-harmless policy we announced in October 1999, we are addressing this problem by adding a new section, Sec. 667.135, which permits States to apply Job Training Partnership Act hold harmless provisions during the first two years of WIA, and sets forth the WIA hold harmless procedures, which take effect in subsequent years.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(b)(1) If a State elects to apply a ``hold-harmless'' under paragraph (a)(1) of this section, a local area must not receive an allocation amount for a fiscal year that is less than 90 percent of the average allocation of the local area for the two preceding fiscal years.  (2) In applying the ``hold harmless'' under paragraph (a)(2) of this section, a local area must not receive an allocation amount for a fiscal year that is less than 90 percent of the average allocation of the local area for the two preceding fiscal years. (3) Amounts necessary to increase allocations to local areas must be obtained by ratably reducing the allocations to be made to other local areas. (4) If the amounts of WIA funds appropriated in a fiscal year are not sufficient to provide the amount specified in paragraph (b)(1) of this section to all local areas, the amounts allocated to each local area mustbe ratably reduced. (WIA Secs. 128(b)(2)(A)(ii), 133(b)(2)(A)(ii), 506.)		

Subpart B -- Administrative Rules and Cost Limitations

Sec. 667.200 What general fiscal and administrative rules apply to the use of WIA Title I funds?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) Uniform fiscal and administrative requirements. (2) Except as provided in paragraphs (a)(3) through (7) of this section, institutions of higher education, hospitals, other non-profit organizations, and commercial organizations must the follow the common rule implementing OMB Circular A-110 which is codified at 29 CFR part 95.	(a) Uniform fiscal and administrative requirements. (2) Except as provided in paragraphs (a)(3) through (6) of this section, institutions of higher education, hospitals, ~~and~~ other non-profit organizations must the follow the common rule implementing OMB Circular A-110 which is codified at 29 CFR part 95.	Three changes were made to Sec. 667.200: Include commercial organizations among the types of organizations listed in Sec. 667.200(a)(2), which specifies the covered organizations identified in 29 CFR 95.1;

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(7) Interest income earned on funds received under WIA Title I must be included in program income. (WIA Sec. 195(7)(B)(iii).) (c) Allowable costs/cost principles. (6) For all types of entities, legal expenses for the prosecution of claims against the Federal Government, including appeals to an Administrative Law Judge, are unallowable.	(7) (Redesignated (a)(7) to (a)(8) (c) Allowable costs/cost principles. (6) (Redesignated (c)(6) to (7))	Insert a new paragraph (a)(7) to indicate interest income earned on funds received under this title is to be treated as program income. Insert a new paragraph (c)(6) which provides that the costs of claims against the Government, including appeals to Administrative Law Judges, are unallowable costs.

Sec. 667.210 What administrative cost limits apply to Workforce Investment Act Title I grants?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) In a One-Stop environment, administrative costs borne by other sources of funds, such as the Wagner-Peyser Act, are not included in the administrative cost limit calculation. Each program's administrative activities area chargeable to its own grant and subject to its own administrative cost limitations.	~~(c) Although administrative in nature, costs of information technology--computer hardware and software--needed for tracking and monitoring of WIA program, participant, or performance requirements; or for collecting, storing and disseminating information under the core services provisions at sections 134(d)(2)(E), (F), (G), (H) and (I) of the Act, are excluded from the administrative cost limit calculation.~~	The provisions in Sec. 667.210(c) became unnecessary after administrative costs were redefined in response to public comment.

Sec. 667.220 What Workforce Investment Act Title I functions and activities constitute the costs of administration subject to the administrative cost limit?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) The costs of administration are that allocable portion of necessary and reasonable allowable costs of State and local workforce investment boards, direct recipients, including State grant recipients under subtitle B of Title I and recipients of awards under subtitle D of Title I, as well as local grant recipients, local grant subrecipients, local fiscal agents and one-stop operators that are associated with those specific functions identified in paragraph (b) of this section and which are not related to the direct provision of workforce investment	(a) The costs of administration are that allocable portion of necessary and allowable costs ~~that are associated with the overall management and administration of the workforce investment system and which are not related to the direct provision of workforce investment activities. These costs can be both personnel and non-personnel and both direct and indirect.~~	…we received suggestions about the definition of administrative costs in various forums and by direct communications from a number of different sources including comments on the Interim Final Rule. The key theme which emerged from this public consultation is that the function and intended purpose of an activity should be used to determine whether the costs associated with it should be charged to the program or administrative cost category. Section 667.220 has been extensively revised…our own review of the effect of various administrative

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
services, including services to participants and employers. These costs can be both personnel and non-personnel and both direct and indirect.		cost definition proposals on efficiency and ease of administration, as well as compliance with the cost limitations.
(b) The costs of administration are the costs associated with performing the following functions:	~~(b) The costs of administration include the costs associated with performing the responsibilities of the State and Local Workforce Investment Boards and of chief elected officials or boards of chief elected officials required for the local public/private partnership. The specific responsibilities of these boards and officials include, but are not limited to, those identified in the sections of the Act dealing with workforce investment boards and areas and one-stop systems, (WIA Secs. 111(d), 116, 117(d), (e) & (h)(4), and 121(a)), such as:~~	The administrative cost definitions were revised. Administrative costs are only those costs incurred for overall program management purposes by State, and local workforce boards, direct WIA grant recipients, local grant subrecipeints, local fiscal agents, and One-Stop operators. All costs of vendors and subrecipients, other than local grant subrecipients, are program costs with the single exception of awards to such vendors and subrecipients which are solely for the purpose of performing functions enumerated in the following paragraph. Thus, incidental administrative costs incurred by a contractor whose contract's intended purpose is to provide identifiable program services do not have to be identified, broken out from other costs incurred under the contract, and tracked against the administrative cost limitation. Costs incurred under contracts whose intended purpose is administrative have to be charged to the administrative cost category.
(1) Performing the following overall general administrative functions and coordination of those functions under WIA Title I:	(1) Performing overall general administrative functions and coordination of those functions under WIA Title I ~~including~~:	
(i) Accounting, budgeting, financial and cash management functions;	~~(i) Preparing program plans, budgets, related schedules, and amendments or modifications thereto;~~	
(ii) Procurement and purchasing functions;	~~(ii) Negotiating MOUs and awarding specific subgrants, contracts, and purchase orders through appropriate procurement processes,~~	
(iii) Property management functions;	~~(iii) Conducting public relations activities which are not related to program outreach,~~	The two types of costs that were initially classified as administrative costs, i.e., preparing program level budget and program planning, and negotiating MOU's and other program level agreements are now considered program costs.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(iv) Personnel management functions; (v) Payroll functions; (vi) Coordinating the resolution of findings arising from audits, reviews, investigations and incident reports; (vii) Audit functions; (viii) General legal services functions; and (ix) Developing systems and procedures, including information systems, required for these administrative functions; (2) Performing oversight and monitoring responsibilities related to WIA administrative functions;	~~(iv) Developing systems and procedures, including information systems for assuring compliance with program requirements, except:~~ ~~(A) Those needed for tracking and monitoring of WIA program, participant, or performance requirements; or~~ ~~(B) For collecting, storing and disseminating information under the core services provisions at WIA sections 134(d)(2)(E), (F), (G), (H) and (I) and information necessary to comply with WIA Section 188 and its implementing regulations.~~ ~~(v) Coordinating the resolution of findings arising from audits, reviews, investigations and incident reports, and~~ ~~(vi) Performing administrative services, including such services as general legal services, financial management and accounting services, audit services; and managing purchasing, property, payroll, and personnel;~~ ~~(2) Performing oversight responsibilities including monitoring of WIA programs, projects and subrecipients, and related systems and processes for compliance with program requirements,~~	

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(3) Costs of goods and services required for administrative functions of the program, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space;	(3) Costs for goods and services required for administration of the program, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space;	
(4) Travel costs incurred for official business in carrying out administrative activities or the overall management of the WIA system; and	~~(4) The costs of organization-wide management functions;~~	
(5) Costs of information systems related to administrative functions (for example, personnel, procurement, purchasing, property management, accounting and payroll systems) including the purchase, systems development and operating costs of such systems.	~~(5) Travel costs incurred for official business in carrying out administrative activities or the overall management of the WIA system; and~~	
	~~(6) Costs of information systems not related to the tracking and monitoring of WIA program, participant, or performance requirements; or for collecting, storing and disseminating information under the core services provisions at sections 134(d)(2)(E), (F), (G), (H) and (I) of the Act, (for example, personnel, accounting and payroll systems).~~	
(c)(1) Awards to subrecipients or vendors that are solely for the performance of administrative functions are classified as administrative costs.	~~(c)(1) That portion of the costs of One-Stop operators which are associated with the performance of the administrative functions described in paragraph (b) of this section are classified as administrative costs. That portion of the costs of one-stop operators which are associated with the direct provision of workforce investment activities are classified as program costs.~~	

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(2) Personnel and related non-personnel costs of staff who perform both administrative functions specified in paragraph (b) of this section and programmatic services or activities must be allocated as administrative or program costs to the benefitting cost objectives/categories based on documented distributions of actual time worked or other equitable cost allocation methods. (3) Specific costs charged to an overhead or indirect cost pool that can be identified directly as a program cost are to be charged as a program cost. Documentation of such charges must be maintained. (4) Except as provided at paragraph (c)(1), all costs incurred for functions and activities of subrecipients and vendors are program costs. (5) Costs of the following information systems including the purchase, systems development and operating (e.g., data entry) costs are charged to the program category: (i) Tracking or monitoring of participant and performance information; (ii) Employment statistics information, including job listing information, job skills information, and demand occupation information; (iii) Performance and program cost information on eligible providers of training services, youth activities, and appropriate education activities;	~~(2) Personnel and related non-personnel costs of the recipient's or subrecipient's staff, including project directors, who perform both administrative and programmatic services or activities may be allocated as administrative or program costs to the benefitting cost objectives/categories based on documented distributions of actual time worked or other equitable cost allocation methods.~~ ~~(3) Costs of staff who provide program services directly to participants and, where applicable, the first line supervisors and/or team leaders responsible for those staff are classified as a program cost.~~ ~~(4) Specific costs charged to an overhead or indirect cost pool that can be identified directly as a program cost may be charged as a program cost. Documentation of such charges must be maintained.~~ ~~(5) The costs of contracts, whether fixed price or cost reimbursement, awarded for the purpose of obtaining specific goods or services may be charged to the administration or program category based on the purpose for which the contract was awarded.~~	All costs of vendors and subrecipients, other than local grant subrecipients, are program costs with the single exception of awards to such vendors and subrecipients which are solely for the purpose of performing functions enumerated in the following paragraph.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(iv) Local area performance information; and (v) Information relating to supportive services and unemployment insurance claims for program participants; (6) Continuous improvement activities are charged to administration or program category based on the purpose or nature of the activity to be improved. Documentation of such charges must be maintained.	~~(6) The following information systems and data entry costs are charged to the program category.~~ ~~(i) Tracking or monitoring of participant and performance information;~~ ~~(ii) Employment statistics information, including job listing information, job skills information, and demand occupation information;~~ ~~(iii) Performance and program cost information on eligible providers of training services, youth activities, and appropriate education activities;~~ ~~(iv) Local area performance information; and~~ ~~(v) Information relating to supportive services and unemployment insurance claims for program participants;~~ ~~(7) Continuous improvement activities are charged to administration or program category based on the purpose or nature of the activity to be improved. Documentation of such charges must be maintained.~~	

Sec. 667.255 Are there special rules that apply to veterans when income is a factor in eligibility determinations?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
Yes, under 38 U.S.C. 4213, when past income is an eligibility determinant for Federal employment or training programs, any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits must be disregarded. This applies	(No text)	Section 667.255 was added to refer programs to 38 U.S.C. 4213 which exempts military pay and certain other benefits from past income for eligibility purposes.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
when determining if a person is a ``low-income individual'' for eligibility purposes, (for example, in the WIA youth, Job Corps, or NFJP programs) and applies if income is used as a factor in applying the priority provision, under 20 CFR 663.600, when WIA adult funds are limited. Questions regarding the application of 38 U.S.C. 4213 should be directed to the Veterans Employment and Training Service.		

Sec. 667.262 Are employment generating activities, or similar activities, allowable under WIA Title I?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(b) These employer outreach and job development activities include: (2) Participation in business associations (such as chambers of commerce); joint labor management committees, labor associations, and resource centers;	(b) These employer outreach and job development activities include: (2) Participation in business associations (such as chambers of commerce);	

Sec. 667.268 What prohibitions apply to the use of WIA Title I funds to encourage business relocation?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(b) Pre-award review. To verify that an establishment which is new or expanding is not, in fact, relocating employment from another area, standardized pre-award review criteria developed by the State must be completed and documented jointly by the local area with the establishment as a prerequisite to WIA assistance. (2) The review may include consultations with labor organizations and others in the affected local area(s). (WIA Sec. 181(d).)	(b) Pre-award review. To verify that an establishment which is new or expanding is not, in fact, relocating employment from another area, standardized pre-award review criteria developed by the State must be completed and documented jointly by the local area with the establishment as a prerequisite to WIA assistance.	Sec. 667.268(b)(2) was added to provide permissive consultation with labor organizations in the affected areas.

Sec. 667.600 What local area, State and direct recipient grievance procedures must be established?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a) Each local area, State and direct recipient of funds under Title I of WIA, except for Job Corps, must establish and maintain a procedure for grievances and complaints according to the requirements of this section. The grievance procedure requirements applicable to Job Corps are set forth at 20 CFR 670.990.	~~(a) Each local area, State and direct recipient of funds under Title I of WIA, except for Job Corps, must establish and maintain a procedure for grievances and complaints according to the requirements of this section. The grievance procedure requirements applicable to Job Corps are set forth at 20 CFR 670.990.~~	
(b) Each local area, State, and direct recipient must: (1) Provide information about the content of the grievance and complaint procedures required by this section to participants and other interested parties affected by the local Workforce Investment System, including One-Stop partners and service providers; (2) Require that every entity to which it awards Title I funds must provide the information referred to in paragraph (b)(1) of this section to participants receiving Title I-funded services from such entities; and (3) Must make reasonable efforts to assure that the information referred to in paragraph (b)(1) of this section will be understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals. Such efforts must comply with the language requirements of 29 CFR 37.35 regarding the provision of services and information in languages other than English.	~~(b) Local area procedures must provide:~~ ~~(1) A process for dealing with grievances and complaints from participants and other interested parties affected by the local Workforce Investment System, including one-stop partners and service providers;~~ ~~(2) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint;~~ ~~(3) A process which allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides; and~~ ~~(4) An opportunity for a local level appeal to a State entity when:~~ ~~(i) No decision is reached within 60 days; or~~ ~~(ii) Either party is dissatisfied with the local hearing decision.~~	Additionally, Sec. 667.600(b) was modified to assure that all participants and other interest parties are notified of their appeal rights in a language understood by youth or persons of limited English proficiency.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) Local area procedures must provide:	~~(c) State procedures must provide:~~	
(1) A process for dealing with grievances and complaints from participants and other interested parties affected by the local Workforce Investment System, including One-Stop partners and service providers;	~~(1) A process for dealing with grievances and complaints from participants and other interested parties affected by the Statewide Workforce Investment programs;~~	
(2) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint;	~~(2) A process for resolving appeals made under paragraph (b)(4) of this section;~~	
(3) A process which allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides; and	~~(3) A process for remanding grievances and complaints related to the local Workforce Investment Act programs to the local area grievance process; and~~	
(4) An opportunity for a local level appeal to a State entity when:	~~(4) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint; and~~	
(i) No decision is reached within 60 days; or		
(ii) Either party is dissatisfied with the local hearing decision.		
(d) State procedures must provide:	~~(d) Procedures of direct recipients must provide:~~	
(1) A process for dealing with grievances and complaints from participants and other interested parties affected by the Statewide Workforce Investment programs;	~~(1) A process for dealing with grievance and complaints from participants and other interested parties affected by the recipient's Workforce Investment Act programs; and~~	
(2) A process for resolving appeals made under paragraph (c)(4) of this section;	~~(2) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint.~~	
(3) A process for remanding grievances and complaints related to the local Workforce Investment Act programs to the local area grievance process; and		

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(4) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint.		
(e) Procedures of direct recipients must provide:	~~(e) The remedies that may be imposed under local, State and direct recipient grievance procedures are enumerated at WIA Section 181(c)(3).~~	
(1) A process for dealing with grievance and complaints from participants and other interested parties affected by the recipient's Workforce Investment Act programs; and		
(2) An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint.		
(f) The remedies that may be imposed under local, State and direct recipient grievance procedures are enumerated at WIA Section 181(c)(3).	~~(f)(1) Under WIA Section 188(a), complaints of discrimination from participants and other interested parties must be handled in accordance with WIA Section 188(b), and the Department of Labor nondiscrimination regulations implementing that section.~~	
	~~(2) Questions about or complaints alleging a violation of the nondiscrimination provisions of WIA Section 188 may be directed or mailed to the Director, Civil Rights Center, U.S. Department of Labor, Room N4123, 200 Constitution Avenue, NW, Washington, DC 20210, for processing.~~	
(g)(1) The provisions of this section on grievance procedures do not apply to discrimination complaints brought under WIA Section 188 and/or 29 CFR part 37. Such complaints must be handled in accordance with the procedures set forth in that regulatory part.	~~(g) Nothing in this subpart precludes a grievant or complainant from pursuing a remedy authorized under another Federal, State or local law.~~	Sec. 667.600(g)(1) is clarified to include that complaints alleging discrimination must be handled in accordance with procedures that meet the requirement of 29 CFR part 37.
(2) Questions about or complaints alleging a violation of the nondiscrimination provisions of WIA Section 188 may be directed or mailed to		

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
the Director, Civil Rights Center, U.S. Department of Labor, Room N4123, 200 Constitution Avenue, NW, Washington, D.C. 20210, for processing. (h) Nothing in this subpart precludes a grievant or complainant from pursuing a remedy authorized under another Federal, State or local law.		

Sec. 667.700 What procedure do we use to impose sanctions and corrective actions on recipients and subrecipients of WIA grant funds?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(a)(1) Except for actions under WIA Section 188(a) or 29 CFR part 37 (relating to nondiscrimination requirements), the Grant Officer uses the initial and final determination procedures outlined in Sec. 667.510 to impose a sanction or corrective action. (2) To impose a sanction or corrective action for a violation of WIA Section 188(a) or 29 CFR part 37, the Department will use the procedures set forth in that regulatory part. (b) To impose a sanction or corrective action for noncompliance with the uniform administrative requirements set forth at Section 184(a)(3) of WIA, and Sec. 667.200(a), when the Grant Officer determines that the Governor has not taken corrective action to remedy the violation as required by WIA Section 184(a)(5), the Grant Officer, under the authority of WIA Section 184(a)(7) and Sec. 667.710(c), must require the Governor to impose any of the corrective actions set forth at WIA Section 184(b)(1). If the Governor fails to impose the corrective actions required by the Grant Officer, the Secretary may immediately suspend or terminate financial assistance in accordance with WIA Section 184(e).	~~(a) Except for actions under WIA Section 188(a) (relating to nondiscrimination requirements), the Grant Officer uses the initial and final determination procedures outlined in Sec. 667.510 of this part to impose a sanction or corrective action.~~ ~~(b) To impose a sanction or corrective action regarding a violation of WIA Section 188(a), the Department will utilize the procedures of WIA Section 188(b) and the Department of Labor nondiscrimination regulations implementing that section.~~	Sec. 667.700(a) and (b) were modified to clarify that the process outlined in 29 CFR part 37 must be followed in matters involving claims of discrimination.

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
(c) For substantial violations of WIA statutory and regulatory requirements, if the Governor fails to promptly take the actions specified in WIA Section 184(b)(1), the Grant Officer may impose such actions directly against the local area.	~~(c) To impose a sanction or corrective action for noncompliance with the uniform administrative requirements set forth at Section 184(a)(3) of WIA, and Sec. 667.200(a) of this part, when the Secretary determines that the Governor has not taken corrective action to remedy the violation required by WIA Section 184(a)(5), the Grant Officer, under the authority of WIA Section 184(a)(7), may impose any of the corrective actions set forth at WIA Section 184(b)(1). In such situations, the Secretary may immediately suspend or terminate financial assistance in accordance with WIA Section 184(e).~~	Sections 667.700 and 667.710 have been revised to more accurately specify the Grant Officer's and the Secretary's authority to impose corrective actions, including plan revocations and reorganizations, directly against local areas, and to terminate or suspend financial assistance. As revised, Sec. 667.700(d) provides that if the Governor does not promptly take corrective actions against a local area for substantial violations of WIA and its regulations, the Grant Officer, under WIA Section 184(b)(3), may impose corrective actions directly against the local area.

Sec. 667.910 Are JTPA participants to be grandfathered into WIA?

WIA Final Rule -- August 11, 2000	WIA Interim Final Rule -- April 15, 1999	Preamble - Final Rule
Yes, all JTPA participants who are enrolled in JTPA must be grandfathered into WIA. These participants can complete the JTPA services specified in their individual service strategy, even if that service strategy is not allowable under WIA, or if the participant is not eligible to receive these services under WIA.	(No text)	Sec 667.910 was added to clarify that all JTPA participants who are enrolled in JTPA must be grandfathered into WIA.